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Conference Room, Suite 700
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Washington, DC 20002

RESERVATIONS: (202) 741–6008

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 205

[Document Number AMS–NOP–12–0034; NOP–12–11]

Implementation of National Organic Program (NOP); Sunset Review (2012) Amendments to Pectin on the National List of Allowed and Prohibited Substances

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule; notice of implementation period.

SUMMARY: On June 6, 2012, AMS published a final rule to address substances due to sunset from the U.S. Department of Agriculture's National List of Allowed and Prohibited Substances (National List) in 2012. This final rule amended two listings for pectin on the National List effective June 27, 2012.

DATES: Based upon new information from the organic industry, AMS is informing operations certified to the USDA organic regulations that AMS will allow operations to reformulate their products until October 21, 2012.

SUPPLEMENTARY INFORMATION: The Organic Foods Production Act of 1990 (OFPA) (7 U.S.C. 6501–6522) authorizes the establishment of the National List of Allowed and Prohibited Substances (National List). The National List identifies synthetic substances that may be used in organic production and nonsynthetic (natural) substances that are prohibited in organic crop and livestock production. The National List also identifies nonagricultural nonsynthetic, nonagricultural synthetic and nonorganic agricultural substances that may be used in organic handling.

On June 6, 2012, AMS published a final rule (77 FR 33290) addressing multiple exemptions due to sunset from the National List in 2012. Based on the comments received, AMS finalized the amendments to pectin as proposed. In an effort to streamline the sunset dates for over 200 listings for substances on the National List and in consideration of the comments on the proposed rule that supported the proposed changes to pectin, AMS determined that the changes to pectin should be included among the amendments and renewals effective on the earliest sunset date, June 27, 2012, for all substances due to expire in 2012.

After publication of the final rule on June 6, 2012, AMS received new information from industry that some organic processors are currently using amidated, non-organic pectin in their products. The industry indicated that these processors would need time to reformulate these products using either non-amidated, non-organic pectin (if organic pectin is not commercially available), or organic pectin in accordance with the changes codified through the final rule. In response to this information, AMS now understands that some product reformulation is necessary.

The amendments to pectin are effective on June 27, 2012. However, AMS considers a period until October 21, 2012, the original sunset date in 2012 for the pectin listings, to be reasonable and appropriate for the industry to reformulate products in order to ensure that the amendments are effectively and rationally implemented. AMS will conduct outreach to the industry and training for certifying agents as appropriate.

Authority: 7 U.S.C. 6501–6522.

Dated: June 22, 2012.

David R. Shipman,

Administrator, Agricultural Marketing Service.

[FR Doc. 2012–15904 Filed 6–26–12; 11:15 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 21

[Docket No. FAA–2012–0408]

Issuance of Special Airworthiness Certificates for Light-Sport Category Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of policy; request for comments.

SUMMARY: Based upon its assessment of the special light-sport aircraft (SLSA) manufacturing industry, the FAA is issuing this notice of policy to inform the public of its policy for assessing the accuracy of declarations made in Statements of Compliance issued for aircraft intended for airworthiness certification as SLSA and to ensure that SLSA conform to identified consensus standards. Additionally, in response to findings noted in its assessment of the SLSA manufacturing industry, the FAA is reiterating its policy regarding the airworthiness certification of SLSA manufactured outside the United States.

DATES: *Effective Date:* This policy becomes effective September 26, 2012.

Comment Date: Comments must be received on or before July 30, 2012

ADDRESSES: You may send comments identified by Docket Number FAA–2012–0408 using any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov* and follow the online instructions for sending your comments electronically.
- *Mail:* Send Comments to Docket Operations, M–30; U.S. Department of Transportation, 1200 New Jersey Avenue SE., West Building Ground Floor, Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Fax:* (202) 493–2251.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this policy statement, contact Richard Posey, Federal Aviation Administration,

Airworthiness Certification Branch AIR–230, FAA Headquarters, 800 Independence Avenue SW., Washington, DC 20591; telephone: (202) 385–6378; fax: 202–385–6475 email: *richard.posey@faa.gov*. For legal questions concerning this policy statement, contact Paul Greer, AGC–200, Office of the Chief Counsel, Federal Aviation Administration, 800 Independence Avenue SW., Washington, DC 20591; telephone (202) 267–3083; email: *paul.g.greer@faa.gov*.

SUPPLEMENTARY INFORMATION: In the following section, we discuss how you can comment on this policy statement and how we will handle your comments. Included in this discussion is related information about the docket, privacy, and the handling of proprietary or confidential business information. We also discuss how you can get a copy of this policy statement and related documents.

Comments Invited

The FAA invites interested persons to participate in formulating this policy statement and request for comments by submitting written comments, data, or views. The most helpful comments reference a specific portion of the notice, explain the reason for any recommended change, and include supporting data. To ensure the docket does not contain duplicate comments, please send only one copy of written comments, or if you are filing comments electronically, please submit your comments only one time.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with FAA personnel concerning this notice. Before acting on this notice, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed after the comment period has closed if it is possible to do so without incurring expense or delay. We may change this policy in light of the comments we receive.

We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *http://DocketsInfo.dot.gov*.

To read background documents or comments received, go to *http://www.regulations.gov* at any time and follow the online instructions for accessing the docket or go to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

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Availability of This Policy

You can get an electronic copy using the Internet by—

(1) Searching the Federal eRulemaking Portal (*http://www.regulations.gov*);

(2) Visiting the FAA's Regulations and Policies Web page at *http://www.faa.gov/regulations_policies/*; or

(3) Accessing the Government Printing Office's Web page at *http://www.gpoaccess.gov/fr/index.html*.

You can also get a copy by sending a request to the Federal Aviation Administration, Office of Rulemaking, ARM–1, 800 Independence Avenue SW., Washington, DC 20591, or by calling (202) 267–9680. Make sure to identify the docket number or notice number of this policy statement. You may access all documents the FAA considered in developing this policy statement, including any analysis or technical reports, from the internet through the Federal eRulemaking Portal referenced in paragraph (1).

Background

On July 24, 2004, the final rule, Certification of Aircraft and Airmen for the Operation of Light-Sport Aircraft, was published in the **Federal Register** (69 FR 44772). The rule established requirements for the issuance of airworthiness certificates for light-sport category aircraft under the provisions of Title 14, Code of Federal Regulations (14 CFR) § 21.190, *Issue of special airworthiness certificates for light-sport category aircraft.* Additionally, the rule established procedures for the airworthiness certification of these aircraft in accordance with industry-developed consensus standards. Through the use of consensus standards, the FAA believed that light-sport aircraft (LSA) could be designed, manufactured, and certificated with less FAA oversight than that required for an aircraft manufactured under type and production certification procedures.

Persons presenting an aircraft for airworthiness certification in the light-sport category must provide the FAA with a Statement of Compliance (FAA Form 8130–15) issued by the aircraft's manufacturer indicating that the aircraft meets the provisions of an identified consensus standard that has been accepted by the FAA. Additionally, an aircraft presented for airworthiness certification as SLSA must be inspected to determine that it is in a condition for safe operation. This inspection is accomplished after the aircraft has been completed but before issuance of the airworthiness certificate. The airworthiness certification process also requires a review of the applicant's documentation supplied with the aircraft, which includes the manufacturer's Statement of Compliance.

When originally proposing the rule, the FAA noted that an aircraft presented for airworthiness certification would be inspected by the FAA (or an FAA-designated representative) to determine that it is in a condition for safe operation. The person conducting the inspection would rely upon the manufacturer's Statement of Compliance to assist in determining that the aircraft meets the applicable consensus standards. At the time that the rule was originally proposed, the FAA indicated that it would follow this course of action unless FAA experience with a manufacturer dictated otherwise (67 FR 5378; February 5, 2002). This intent remained unchanged with publication of the final rule.

As the number of aircraft certificated as SLSA rapidly grew, the FAA determined that it was appropriate to

conduct an assessment to evaluate the health, state of systems implementation, and compliance of the SLSA industry. From September 2008 through March 2009, the Aircraft Certification Service, Production and Airworthiness Division (AIR–200) conducted an assessment of SLSA manufacturers by evaluating their systems and processes through on-site evaluation, analysis, and reporting.

The FAA assessment team collected data from SLSA manufacturers (including their extensions and distributors located in the United States) regarding compliance with applicable regulations and standards. After reviewing this data the team recommended enhancements to industry consensus standards for LSA design, manufacturing, continued airworthiness, and maintenance. It also made recommendations for changes to agency internal processes and procedures. A copy of the report can be found in the docket for this notice.

Among the report's conclusions, the FAA found that the majority of the manufacturing facilities evaluated could not fully substantiate that the aircraft for which they had issued Statements of Compliance did, in fact, meet the consensus standards identified in those documents. Therefore, the FAA could not determine that aircraft for which these statements were issued actually met the provisions of the identified consensus standards.

The assessment raised concerns that the SLSA airworthiness certification process, as originally envisioned, does not always achieve its intended purpose. Additionally, the FAA was particularly concerned that SLSA manufacturers have not been sufficiently verifying that their continued airworthiness systems are functioning properly. The FAA has determined that its original policy of reliance on manufacturers' Statements of Compliance for the issuance of airworthiness certificates for SLSA under the provisions of § 21.190 should be reconsidered and that more FAA involvement in the airworthiness certification process for SLSA is warranted.

Manufacturer's Statement of Compliance

The FAA notes that a manufacturer's Statement of Compliance presented during the airworthiness certification process for an SLSA must contain a statement that at the request of the FAA, the manufacturer will provide unrestricted access to its facilities. The Statement of Compliance, when signed by the aircraft's manufacturer, sets forth the manufacturer's consent to FAA inspection of its facilities and constitutes an assertion that the information contained in the document is true. If, upon examination, the FAA finds that the manufacturer's statements are not accurate, an airworthiness certificate will not be issued for that SLSA until it has been demonstrated that the aircraft meets the identified consensus standards and that the manufacturer is able to comply with the provisions of its Statement of Compliance. SLSA manufacturers signing a Statement of Compliance must ultimately be able to demonstrate their ability to carry out those functions and responsibilities referenced in the statement to the satisfaction of the FAA, and meet all other relevant airworthiness certification requirements.

SLSA Manufacturers

The current process for airworthiness certification of SLSA is described in FAA Order 8130.2, Airworthiness Certification of Aircraft and Related Products. The process includes reviewing the applicant's documentation supplied with the aircraft, and verifying it agrees with the identification and description of the aircraft and that it conforms to applicable regulations. The FAA considers an SLSA manufacturer to be a person who not only can attest to meeting the provisions of 14 CFR 21.190, but who can demonstrate these abilities to the satisfaction of the FAA. A person who cannot demonstrate these abilities, or complete the manufacturer's Statement of Compliance would not be considered a manufacturer.

The Statement of Compliance issued for an SLSA in accordance with § 21.190(c), by an SLSA manufacturer, must:

(1) Identify the aircraft by make and model, serial number, class, date of manufacture, and consensus standard used;

(2) State that the aircraft meets the provisions of the identified consensus standard;

(3) State that the aircraft conforms to the manufacturer's design data, using the manufacturer's quality assurance system that meets the identified consensus standard;

(4) State that the manufacturer will make available to any interested person the following documents that meet the identified consensus standard:

(i) The aircraft's operating instructions.

(ii) The aircraft's maintenance and inspection procedures.

(iii) The aircraft's flight training supplement.

(5) State that the manufacturer will monitor and correct safety-of-flight issues through the issuance of safety directives and a continued airworthiness system that meets the identified consensus standard;

(6) State that at the request of the FAA, the manufacturer will provide unrestricted access to its facilities; and

(7) State that the manufacturer, in accordance with a production acceptance test procedure that meets an applicable consensus standard has—

(i) Ground and flight tested the aircraft;

(ii) Found the aircraft performance acceptable; and

(iii) Determined that the aircraft is in a condition for safe operation.

If a manufacturer cannot demonstrate it can perform the functions specified in the Statement of Compliance for an SLSA or cannot substantiate that those functions have been (or can be, as appropriate) accomplished, the FAA would not consider that person to be the manufacturer of the aircraft intended for airworthiness certification as an SLSA.

Persons providing the FAA with a Statement of Compliance must understand the implications of making the statement. The FAA expects the Statement of Compliance to reflect the manufacturer's understanding of its responsibilities, its capability to execute those responsibilities fully, and a commitment to meeting its obligations in the future.

The FAA is particularly concerned that manufacturers issuing a Statement of Compliance have a system to monitor and correct safety-of-flight issues. The manufacturer therefore must be able to monitor and notify operators to correct unsafe conditions for as long as these aircraft are U.S.-registered. The manufacturer also is responsible for issuing corrective actions in accordance with its program to monitor and correct safety-of-flight issues and must notify the owners of the affected aircraft of these corrective actions. To ensure the success of the FAA's program for SLSA airworthiness certification, the FAA expects manufacturers to implement a vigorous system to monitor and correct safety-of-flight issues.

SLSA manufacturers must be able to provide for the continued operational safety of their aircraft. In order to meet this obligation, which the manufacturer has accepted through its issuance of a Statement of Compliance, it must maintain adequate engineering data and engineering staff to monitor and correct safety-of-flight issues affecting the aircraft. This continuing obligation is incurred by both manufacturers who have issued Statements of Compliance

for aircraft that are currently certificated as SLSA and manufacturers who have issued Statements of Compliance for aircraft being presented for airworthiness certification.

If, during the FAA's examination of an aircraft, it finds that the aircraft was received from a location outside the United States and only assembled within the United States, the requirements of 14 CFR 21.190(d) must be met for the aircraft to be considered eligible for an airworthiness certificate. This is further clarified in the following section.

SLSA Manufactured Outside the United States

Aircraft intended for airworthiness certification as SLSA that have been manufactured outside the United States must be manufactured in country with which the United States has a Bilateral Airworthiness Agreement concerning airplanes, a Bilateral Aviation Safety Agreement with associated Implementation Procedures for Airworthiness concerning airplanes, or an equivalent airworthiness agreement. The aircraft must also be eligible for an airworthiness certificate, flight authorization, or other similar certification in its country of manufacture. These requirements are set forth in 14 CFR 21.190(d).

During the recent assessment, the FAA identified several anomalies involving aircraft manufactured outside the United States. These included:

- Aircraft manufactured outside the United States that were shipped disassembled to the United States, and assembled by U.S. persons who declared themselves to be the U.S. manufacturers. The FAA found that some aircraft were manufactured in countries with a bilateral agreement and some were not. In both situations, the U.S persons who performed the assembly did not, or could not, carry out the functions to which they attested in their Statements of Compliance for the aircraft.
- Aircraft manufactured in countries without bilateral agreements that were ''passed through'' a country with which the U.S. has a bilateral agreement. A person in the country with which the U.S. has a bilateral agreement completed the Statement of Compliance before shipping the aircraft to the United States. Again, these persons did not, or could not, carry out the functions to which they attested in their Statements of Compliance for the aircraft.
- Aircraft for which a foreign entity claimed responsibility for certain aspects of the Statement of Compliance and a U.S. person claimed responsibility for the remaining aspects, thereby splitting the manufacturer's responsibility between two distinct persons; and
- Aircraft manufactured in countries with appropriate bilateral agreements by entities that would ship the aircraft to a U.S. distributor. Neither the U.S. distributor nor the foreign entity could maintain a program to correct safety-of-flight issues as attested to in the aircraft's Statement of Compliance.

The assessment clearly identified that aircraft have been supplied to U.S. persons who lack the ability to reasonably attest to the provisions set forth in § 21.190(c). Additionally, U.S. persons have been providing the FAA with a manufacturer's Statement of Compliance identifying themselves as the U.S. manufacturer of an aircraft when the aircraft was in fact produced outside the United States. These situations are not in compliance with the regulations. The FAA did not intend for U.S. persons to receive disassembled LSA from outside the United States, reassemble them within the United States, and characterize themselves as the U.S. manufacturer of an SLSA. As these persons cannot substantiate the information contained in the Statement of Compliance, the FAA does not consider them to be the manufacturers of the aircraft. Accordingly, the FAA will not issue airworthiness certificates in the light-sport category for these aircraft.

Additionally, persons who are unable to make available the documents required by the consensus standards and regulations, do not have the systems in place to monitor and correct safety-of-flight issues, or are unable to adequately ensure the continued airworthiness of the aircraft they assemble, would not be able to sign a Statement of Compliance as a manufacturer. The FAA also notes that any person who makes any fraudulent, intentionally false, or misleading statement on the Statement of Compliance could be found to be in violation of 14 CFR 21.2.

The FAA recognizes that it may be possible for a U.S. person to receive portions of a LSA from an entity outside the United States that is acting as a supplier to the U.S. SLSA manufacturer. If this person signs a Statement of Compliance, this person is asserting that the declarations made in the statement are true, and that the person can fulfill the responsibilities set forth in that statement. While some of the U.S. SLSA manufacturers can meet this standard; the FAA has concerns that many cannot substantiate the declarations made in their Statement of Compliance when the majority of the production activity for the aircraft takes place outside the United States.

The provisions of § 21.190(d) were enacted to ensure that a bilateral agreement would exist which would provide the FAA with a means, if necessary, to seek assistance from local civil aviation authorities on any issues affecting the design, production, continued airworthiness, or other matters needing investigation or analysis (69 FR 44806). Any attempts to circumvent the provisions of § 21.190(d) significantly hinder the FAA's ability to address safety issues affecting aircraft certificated as SLSA.

Effect of This Policy Statement

The FAA's actions are intended to ensure compliance with existing regulations and enhance the safety of the existing and future SLSA fleet. The FAA recognizes that these actions may impact existing SLSA manufacturers as well as those persons intending to initiate SLSA production. The FAA has established a Frequently Asked Questions page at *http://www.faa.gov/aircraft/gen_av/light_sport/* to assist current manufacturers in assessing their own capabilities, and ensuring that the Statements of Compliance they issue are accurate.

Aircraft that were issued an airworthiness certificate prior to the effective date of this notice are not affected by this policy statement provided all other applicable requirements are met.

The FAA recognizes that upon implementation of this policy, some entities who have claimed to be SLSA manufacturers may not be able to issue a valid Statement of Compliance, and that other entities may not be willing to assume responsibility for continuing operational safety requirements. Therefore, aircraft within the existing fleets from these manufacturers may no longer be eligible to retain their airworthiness certification as SLSA. These aircraft, however, may be eligible for airworthiness certification as experimental light-sport aircraft (ELSA). The FAA does not intend to accept continued operational safety responsibility for an SLSA whose manufacturer no longer exists or is unable or unwilling to assume that responsibility. The FAA also recognizes that some aircraft that are primarily manufactured outside the United States and assembled in the United States may be found to be ineligible for airworthiness certification as SLSA or ELSA.

Issued in Washington, DC, on June 19, 2012.

Frank P. Paskiewicz,

Deputy Director, Aircraft Certification Service.

[FR Doc. 2012–15765 Filed 6–27–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 25

[Docket No. FAA–2012–0624; Special Conditions No. 25–464–SC]

Special Conditions: Gulfstream Aerospace LP (GALP), Model Gulfstream G280 Airplane; Isolation or Aircraft Electronic System Security Protection From Unauthorized Internal Access

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final special conditions; request for comments.

SUMMARY: These special conditions are issued for the Gulfstream Aerospace LP, Model Gulfstream G280 airplane. This airplane will have novel or unusual design features associated with connectivity of the passenger service computer systems to the airplane critical systems and data networks. The applicable airworthiness regulations do not contain adequate or appropriate safety standards for these design features. These special conditions contain the additional safety standards that the Administrator considers necessary to establish a level of safety equivalent to that established by the existing airworthiness standards.

DATES: The effective date of these special conditions is June 7, 2012. We must receive your comments by August 13, 2012.

ADDRESSES: Send comments identified by docket number FAA–2012–0624 using any of the following methods:

- *Federal eRegulations Portal:* Go to *http://www.regulations.gov/* and follow the online instructions for sending your comments electronically.
- *Mail:* Send comments to Docket Operations, M–30, U.S. Department of Transportation (DOT), 1200 New Jersey Avenue SE., Room W12–140, West Building Ground Floor, Washington, DC 20590–0001.
- *Hand Delivery or by Courier:* Take comments to Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 8 a.m. and 5 p.m., Monday through Friday, except federal holidays.
- *Fax:* Fax comments to Docket Operations at 202–493–2251.

Privacy: The FAA will post all comments it receives, without change, to *http://www.regulations.gov/,* including any personal information the commenter provides. Using the search function of the docket Web site, anyone can find and read the electronic form of all comments received into any FAA docket, including the name of the individual sending the comment (or signing the comment for an association, business, labor union, etc.). DOT's complete Privacy Act Statement can be found in the **Federal Register** published on April 11, 2000 (65 FR 19477–19478), as well as at *http://DocketsInfo.dot.gov/*.

Docket: Background documents or comments received may be read at *http://www.regulations.gov/* at any time. Follow the online instructions for accessing the docket or go to the Docket Operations in Room W12–140 of the West Building Ground Floor at 1200 New Jersey Avenue SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except federal holidays.

FOR FURTHER INFORMATION CONTACT: Varun Khanna, FAA, Airplane and Flight Crew Interface Branch, ANM–111, Transport Airplane Directorate, Aircraft Certification Service, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone 425–227–1298; facsimile 425–227–1149.

SUPPLEMENTARY INFORMATION: The FAA has determined that notice of, and opportunity for prior public comment on, these special conditions are impracticable because these procedures would significantly delay issuance of the design approval and thus delivery of the affected aircraft. In addition, the substance of these special conditions has been subject to the public comment process in several prior instances with no substantive comments received. The FAA therefore finds that good cause exists for making these special conditions effective upon issuance.

Comments Invited

We invite interested people to take part in this rulemaking by sending written comments, data, or views. The most helpful comments reference a specific portion of the special conditions, explain the reason for any recommended change, and include supporting data.

We will consider all comments we receive by the closing date for comments. We may change these special conditions based on the comments we receive.

Background

On March 30, 2006, Gulfstream Aerospace LP (hereafter referred to as ''GALP'') applied for a type certificate for their new Model Gulfstream G280 (hereafter referred to as ''Model G280'') airplane. The Model G280 is a two-engine jet transport airplane with a maximum takeoff weight of 39,600 pounds and an emergency exit arrangement to support a maximum of 19 passengers. Although the Model G280 design includes occupancy provisions for pilot and copilot only (no passengers), GALP requested issuance of these special conditions to support efficient design and certification of passenger cabin interiors through the supplemental type certification process.

Type Certification Basis

Under the provisions of Title 14, Code of Federal Regulations (14 CFR) 21.17, GALP must show that the Model G280 meets the applicable provisions of part 25, as amended by Amendments 25–1 through 25–120, thereto, and Amendment 25–122. In addition, the certification basis includes certain special conditions, exemptions, and equivalent safety findings that are not relevant to these special conditions.

If the Administrator finds that the applicable airworthiness regulations (i.e., 14 CFR part 25) do not contain adequate or appropriate safety standards for the Model G280 because of a novel or unusual design feature, special conditions are prescribed under the provisions of § 21.16.

Special conditions are initially applicable to the model for which they are issued. Should the type certificate for that model be amended later to include any other model that incorporates the same novel or unusual design feature, the special conditions would also apply to the other model.

In addition to the applicable airworthiness regulations and special conditions, the Model G280 must comply with the fuel vent and exhaust emission requirements of 14 CFR part 34 and the noise certification requirements of 14 CFR part 36; and the FAA must issue a finding of regulatory adequacy under § 611 of Public Law 92–574, the ''Noise Control Act of 1972.''

The FAA issues special conditions, as defined in 14 CFR 11.19, in accordance with § 11.38, and they become part of the type certification basis under § 21.17(a)(2).

Novel or Unusual Design Features

The Model G280 will incorporate the following novel or unusual design features: Digital systems architecture

composed of several connected networks. The proposed architecture and network configuration may be used for, or interfaced with, a diverse set of functions, including:

1. Flight-safety related control, communication, and navigation systems (aircraft control functions);

2. Airline business and administrative support (airline information services), and;

3. Passenger information and entertainment systems (passenger entertainment services).

Discussion

The Model G280 integrated network configuration may allow increased connectivity with external network sources and will have more interconnected networks and systems, such as passenger entertainment and information services, than previous GALP airplane models. This may allow the exploitation of network security vulnerabilities and increased risks potentially resulting in unsafe conditions for the airplane and its occupants. This potential exploitation of security vulnerabilities may result in intentional or unintentional destruction, disruption, degradation, or exploitation of data and systems critical to the safety and maintenance of the airplane. The existing regulations and guidance material did not anticipate these types of system architectures. Furthermore, 14 CFR regulations and current system safety assessment policy and techniques do not address potential security vulnerabilities which could be exploited by unauthorized access to airplane networks and servers. Therefore, these special conditions are being issued to ensure that the security (i.e., confidentiality, integrity, and availability) of airplane systems is not compromised by unauthorized wired or wireless electronic connections between airplane systems and the passenger entertainment services.

Applicability

As discussed above, these special conditions are applicable to the Model G280. Should GALP apply at a later date for a change to the type certificate to include another model incorporating the same novel or unusual design feature, the special conditions would apply to that model as well.

Conclusion

This action affects only certain novel or unusual design features on one model of airplane. It is not a rule of general applicability.

The substance of these special conditions has been subjected to the notice and comment period in several prior instances and has been derived without substantive change from those previously issued. It is unlikely that prior public comment would result in a significant change from the substance contained herein. Therefore, because a delay would significantly affect the certification of the airplane, which is imminent, the FAA has determined that prior public notice and comment are unnecessary and impracticable, and good cause exists for adopting these special conditions upon issuance. The FAA is requesting comments to allow interested persons to submit views that may not have been submitted in response to the prior opportunities for comment described above.

List of Subjects in 14 CFR Part 25

Aircraft, Aviation safety, Reporting and recordkeeping requirements.

The authority citation for these special conditions is as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701, 44702, 44704.

The Special Conditions

Accordingly, pursuant to the authority delegated to me by the Administrator, the following special conditions are issued as part of the type certification basis for Gulfstream Aerospace LP, Model Gulfstream G280 airplanes.

1. Isolation or Aircraft Electronic System Security Protection from Unauthorized Internal Access. The applicant must ensure that the design provides isolation from, or airplane electronic system security protection against, access by unauthorized sources internal to the airplane. The design must prevent inadvertent and malicious changes to, and all adverse impacts upon, airplane equipment, systems, networks, or other assets required for safe flight and operations.

2. The applicant must establish appropriate procedures to allow the operator to ensure that continued airworthiness of the aircraft is maintained, including all post type certification modifications that may have an impact on the approved electronic system security safeguards.

Issued in Renton, Washington, on June 7, 2012.

Michael Kaszycki,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–15913 Filed 6–27–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0034; Directorate Identifier 2011–NM–153–AD; Amendment 39–17105; AD 2012–13–03]

RIN 2120–AA64

Airworthiness Directives; Bombardier, Inc. Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for certain Bombardier, Inc. Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes. This AD was prompted by a report of a ground fire which was fed by oxygen escaping from a damaged third crew person oxygen line and had started in the vicinity of an electrical panel. This AD requires replacing and changing the routing of the flexible oxygen hose of the third crew person oxygen line and modifying the entrance compartment assembly. We are issuing this AD to prevent the possibility of damage to the third crew person oxygen line and of an oxygen-fed fire in the airplane.

DATES: This AD becomes effective August 2, 2012.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of August 2, 2012.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Cesar Gomez, Aerospace Engineer, Airframe and Mechanical Systems Branch, ANE–171, FAA, New York Aircraft Certification Office, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone (516) 228–7318; fax (516) 794–5531.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on January 23, 2012 (77 FR 3184). That NPRM proposed to correct

an unsafe condition for the specified products. The MCAI states:

> An operator has reported a ground fire in the CL–600–2B19 aeroplane. The fire burnt an 18 inch hole through the left upper fuselage skin panel in the cockpit area. The fire started in the vicinity of the Junction Box 1 (JB1) electrical panel, and was fed by oxygen escaping from a damaged third crewman oxygen line.
>
> This [Transport Canada Civil Aviation (TCCA)] Airworthiness Directive (AD) was issued to prevent the possibility of damage to the third crewman oxygen line and an oxygen fed fire in the aeroplane.

You may obtain further information by examining the MCAI in the AD docket.

Comments

We gave the public the opportunity to participate in developing this AD. We have considered the comments received.

Support for the NPRM (77 FR 3184, January 23, 2012)

Air Line Pilots Association, International (ALPA) stated that the proposed actions will enhance safety and that it supports the intent of the NPRM (77 FR 3184, January 23, 2012).

Request To Shorten the Compliance Time and Add an Inspection

The ALPA requested that an initial inspection of the oxygen hose be performed within 500 flight hours after the effective date of the AD and immediate replacement of any damaged hoses. The commenter also requested that the compliance time for the replacement specified in the NPRM (77 FR 3184, January 23, 2012) of ''within 4,000 flight hours after the effective date of the AD.'' be reduced to ''within 2000 flight hours after the effective date of this AD.''

We do not agree to add an inspection to the requirements of this AD. We have determined that accomplishing the replacement required by paragraph (g) of this AD addresses the identified unsafe condition. We have not changed the AD in this regard.

We, also, do not agree with the request for a shorter compliance time. In developing the compliance time, we determined that the compliance time of 4,000 flight hours after the effective date of the AD is appropriate considering the safety implications, the average utilization rate of the affected fleet, the practical aspects of an orderly inspection of the fleet during regular maintenance periods, and the availability of required replacement parts. In addition, the proposed compliance time corresponds with the compliance time of the parallel AD issued by TCCA. Operators may request approval of an alternative method of compliance (AMOC) under the provisions of paragraph (i)(1) of this AD. We have not changed the AD in this regard.

Request To Revise Wording

Air Wisconsin requested that the wording in paragraph (h) of the NPRM (77 FR 3184, January 23, 2012) be changed from ''modify'' to ''discard'' as Bombardier Service Bulletin 601R–35–017, Revision A, dated June 9, 2011, states in various places to discard the hose.

We partially agree. The wording in paragraph (h) of the NPRM (77 FR 3184, January 23, 2012) incorrectly implied that both the entrance compartment assembly and the flexible oxygen hose could be modified. We have changed paragraphs (g) and (h) of this AD to clarify that the entrance compartment assembly is ''modified'' and that the flexible oxygen hose is ''replaced with a new flexible oxygen hose.''

Conclusion

We reviewed the available data, including the comments received, and determined that air safety and the public interest require adopting the AD with the changes described previously—except for minor editorial changes. We have determined that these changes:

- Are consistent with the intent that was proposed in the NPRM (77 FR 3184, January 23, 2012) for correcting the unsafe condition; and
- Do not add any additional burden upon the public than was already proposed in the NPRM (77 FR 3184, January 23, 2012).

Costs of Compliance

We estimate that this AD will affect 588 products of U.S. registry. We also estimate that it will take about 13 work-hours per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Required parts will cost about $108 per product. Where the service information lists required parts costs that are covered under warranty, we have assumed that there will be no charge for these parts. As we do not control warranty coverage for affected parties, some parties may incur costs higher than estimated here. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $713,244, or $1,213 per product.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);

3. Will not affect intrastate aviation in Alaska; and

4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM (77 FR 3184, January 23, 2012), the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new AD:

2012–13–03 Bombardier, Inc.: Amendment 39–17105. Docket No. FAA–2012–0034; Directorate Identifier 2011–NM–153–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective August 2, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Bombardier, Inc. Model CL–600–2B19 (Regional Jet Series 100 & 440) airplanes; certificated in any category; equipped with entrance compartment assembly having part numbers that begin with A281001, A282001, A283001, A284001, 4591001, 4592001, 4593001, or 4594001.

(d) Subject

Air Transport Association (ATA) of America Code 35: Oxygen.

(e) Reason

This AD was prompted by a report of a ground fire which was fed by oxygen escaping from a damaged third crew person oxygen line and had started in the vicinity of an electrical panel. We are issuing this AD to prevent the possibility of damage to the third crew person oxygen line and of an oxygen-fed fire in the airplane.

(f) Compliance

You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

(g) Actions

Within 4,000 flight hours after the effective date of this AD, change the routing and replace the flexible oxygen hose of the third crew person oxygen line with a new flexible oxygen hose and modify the entrance compartment assembly, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 601R–35–017, Revision A, dated June 9, 2011.

(h) Parts Installation

As of the effective date of this AD, no person may install an entrance compartment assembly having a part number that begins with A281001, A282001, A283001, A284001, 4591001, 4592001, 4593001, or 4594001, or a flexible oxygen hose having a part number 38027–0260, on any airplane, unless that entrance compartment assembly has been modified and the flexible oxygen hose has been replaced with a new flexible oxygen hose, in accordance with the Accomplishment Instructions of Bombardier Service Bulletin 601R–35–017, Revision A, dated June 9, 2011.

(i) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, New York Aircraft Certification Office (ACO), ANE–170, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the ACO, send it to ATTN: Program Manager, Continuing Operational Safety, FAA, New York ACO, 1600 Stewart Avenue, Suite 410, Westbury, New York 11590; telephone 516–228–7300; fax 516–794–5531. Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) Airworthy Product: For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(j) Related Information

Refer to MCAI Canadian Airworthiness Directive CF–2011–23, dated July 14, 2011; and Bombardier Service Bulletin 601R–35–017, Revision A, dated June 9, 2011; for related information.

(k) Material Incorporated by Reference

(1) You must use the following service information to do the actions required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference (IBR) of the following service information under 5 U.S.C. 552(a) and 1 CFR part 51:

(i) Bombardier Service Bulletin 601R–35–017, Revision A, dated June 9, 2011.

(2) For service information identified in this AD, contact Bombardier, Inc., 400 Côte-Vertu Road West, Dorval, Québec H4S 1Y9, Canada; telephone 514–855–5000; fax 514–855–7401; email *thd.crj@aero.bombardier.com;* Internet *http://www.bombardier.com.*

(3) You may review copies of the service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

(4) You may also review copies of the service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at an NARA facility, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on June 19, 2012.

John P. Piccola,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–15602 Filed 6–27–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0330; Directorate Identifier 2011–NM–116–AD; Amendment 39–17103; AD 2012–13–01]

RIN 2120–AA64

Airworthiness Directives; Saab AB, Saab Aerosystems Airplanes

AGENCY: Federal Aviation Administration (FAA), Department of Transportation (DOT).

ACTION: Final rule.

SUMMARY: We are adopting a new airworthiness directive (AD) for all Saab AB, Saab Aerosystems Model 340A (SAAB/SF340A) and SAAB 340B airplanes. This AD was prompted by reports indicating that wear of the elevator pushrods has occurred on some airplanes after extended time in service. This AD requires determining if a certain part number is installed, performing a detailed inspection for individual play between the elevator pushrod assembly and degradation of elevator pushrod assembly, and replacing the affected elevator pushrod assembly with a new elevator pushrod assembly if necessary. We are issuing this AD to prevent a free elevator from affecting the pitch control authority, which may result in reduced controllability of the airplane.

DATES: This AD becomes effective August 2, 2012.

The Director of the Federal Register approved the incorporation by reference of a certain publication listed in this AD as of August 2, 2012.

ADDRESSES: You may examine the AD docket on the Internet at *http://www.regulations.gov* or in person at the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Shahram Daneshmandi, Aerospace

Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–1112; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Discussion

We issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to the specified products. That NPRM was published in the **Federal Register** on April 2, 2012 (77 FR 19565). That NPRM proposed to correct an unsafe condition for the specified products. The MCAI states:

> Field experience has indicated that wear of the elevator pushrod has occurred on some aeroplanes after extended time in service. Although properly installed, the locknut has been able to back off within a limited range, leading to degradation of the pushrod which causes backlash in between the rod end threads.
>
> This condition, if not detected and corrected, may lead to a free elevator affecting the pitch control authority, possibly resulting in reduced control of the aeroplane.
>
> To address this unsafe condition, SAAB AB Aeronautics have issued Service Bulletin (SB) 340–27–100, accomplishment of which will reduce the probability for backlash and minimize the possibility of failure in the pitch control system.
>
> For the reasons described above, this [EASA] AD requires the identification of the pushrod assembly Part Number (P/N) as installed on the aeroplane, replacement of P/N TDF11755 pushrod assemblies, inspection of P/N 12003–33 and P/N R20990 elevator pushrod assemblies [for individual play between the elevator pushrod assembly and degradation of elevator pushrod assembly] and corrective actions [replacement], depending on findings.

You may obtain further information by examining the MCAI in the AD docket.

Comments

We gave the public the opportunity to participate in developing this AD. We received no comments on the NPRM (77 FR 19565, April 2, 2012) or on the determination of the cost to the public.

Conclusion

We reviewed the available data and determined that air safety and the public interest require adopting the AD as proposed.

Costs of Compliance

We estimate that this AD will affect 162 products of U.S. registry. We also estimate that it will take about 1 work-hour per product to comply with the basic requirements of this AD. The average labor rate is $85 per work-hour. Based on these figures, we estimate the cost of this AD to the U.S. operators to be $13,770, or $85 per product.

In addition, we estimate that any necessary follow-on actions would take about 7 work-hours and require parts costing $1,588 for a cost of $2,183 per product. We have no way of determining the number of products that may need these actions.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, section 106, describes the authority of the FAA Administrator. ''Subtitle VII: Aviation Programs,'' describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in ''Subtitle VII, Part A, Subpart III, Section 44701: General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We determined that this AD will not have federalism implications under Executive Order 13132. This AD will not have a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that this AD:

1. Is not a ''significant regulatory action'' under Executive Order 12866;

2. Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979);

3. Will not affect intrastate aviation in Alaska; and

4. Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

We prepared a regulatory evaluation of the estimated costs to comply with this AD and placed it in the AD docket.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Operations office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains the NPRM (77 FR 19565, April 2, 2012), the regulatory evaluation, any comments received, and other information. The street address for the Docket Operations office (telephone (800) 647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

Adoption of the Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

■ 1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

■ 2. The FAA amends § 39.13 by adding the following new AD:

2012–13–01 Saab AB, Saab Aerosystems: Amendment 39–17103. Docket No. FAA–2012–0330; Directorate Identifier 2011–NM–116–AD.

(a) Effective Date

This airworthiness directive (AD) becomes effective August 2, 2012.

(b) Affected ADs

None.

(c) Applicability

This AD applies to Saab AB, Saab Aerosystems Model 340A (SAAB/SF340A) and SAAB 340B airplanes, certificated in any category, all serial numbers.

(d) Subject

Air Transport Association (ATA) of America Code 27: Flight Controls.

(e) Reason

This AD was prompted by reports indicating that wear of the elevator pushrods has occurred on some airplanes after extended time in service. We are issuing this AD to prevent a free elevator from affecting the pitch control authority, which may result in reduced controllability of the airplane.

(f) Compliance

You are responsible for having the actions required by this AD performed within the compliance times specified, unless the actions have already been done.

(g) Inspection To Determine the Part Number

Within the applicable time specified in table 1 of this AD, inspect each elevator pushrod assembly to determine the part number (P/N).

(1) If a P/N TDF11755 elevator pushrod assembly is installed, or if the part number cannot be determined: Before further flight, replace the affected elevator pushrod assembly with a P/N R20990 elevator pushrod assembly, in accordance with the Accomplishment Instructions of Saab Service Bulletin 340–27–100, dated February 1, 2011.

(2) If a P/N 12003–33 or P/N R20990 elevator pushrod assembly is installed: Do a detailed inspection for individual play between the rod end and the pushrod at the locking device and degradation of the elevator pushrod assembly (including rod end threads not visible through the inspection hole in the pushrod, and the nut and locking device not properly locked with the lock wire), in accordance with the Accomplishment Instructions of Saab Service Bulletin 340–27–100, dated February 1, 2011.

TABLE 1—COMPLIANCE TIMES

Total flight hours accumulated as of the effective date of this AD	Compliance time
For airplanes with 30,000 total flight hours or more	Within 6 months after the effective date of this AD.
For airplanes with 28,000 total flight hours or more, but less than 30,000 total flight hours.	Before the accumulation of 30,000 total flight hours or within 6 months after the effective date of this AD, whichever occurs later.
For airplanes with less than 28,000 total flight hours	Before the accumulation of 30,000 total flight hours.

(h) Corrective Action

If, during the inspection of the elevator pushrod assembly required by paragraph (g)(2) of this AD, individual play between the rod end and the pushrod at the locking device, or degradation of the elevator pushrod assembly (including rod end threads not visible through the inspection hole in the pushrod, and the nut and locking device not properly locked with the lock wire) is found: Before further flight, replace the affected elevator pushrod assembly with a new elevator pushrod assembly, P/N R20990, in accordance with the Accomplishment Instructions of Saab Service Bulletin 340–27–100, dated February 1, 2011.

(i) Parts Installation

As of the effective date of this AD, no person may install an elevator pushrod assembly with P/N TDF11755, on any airplane.

(j) Reporting Requirement

Submit a report of the findings (both positive and negative) of the inspection and replacement required by paragraphs (g) and (h) of this AD to Saab AB, Support and Services, SE–581 88 Linköping, Sweden; fax +46 13 18 48 74; email *saab340.techsupport@saabgroup.com;* at the applicable time specified in paragraph (j)(1) or (j)(2) of this AD.

(1) If the inspection was done on or after the effective date of this AD: Submit the report within 30 days after the inspection.

(2) If the inspection was done before the effective date of this AD: Submit the report within 30 days after the effective date of this AD.

(k) Other FAA AD Provisions

The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, ANM–116, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the International Branch, send it to ATTN: Shahram Daneshmandi, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue SW., Renton, Washington 98057–3356; telephone (425) 227–1112; fax (425) 227–1149. Information may be emailed to: *9-ANM-116-AMOC-REQUESTS@faa.gov.* Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office. The AMOC approval letter must specifically reference this AD.

(2) Airworthy Product: For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) Reporting Requirements: A federal agency may not conduct or sponsor, and a person is not required to respond to, nor shall a person be subject to a penalty for failure to comply with a collection of information subject to the requirements of the Paperwork Reduction Act unless that collection of information displays a current valid OMB Control Number. The OMB Control Number for this information collection is 2120–0056. Public reporting for this collection of information is estimated to be approximately 5 minutes per response, including the time for reviewing instructions, completing and reviewing the collection of information. All responses to this collection of information are mandatory. Comments concerning the accuracy of this burden and suggestions for reducing the burden should be directed to the FAA at: 800 Independence Ave. SW., Washington, DC 20591, Attn: Information Collection Clearance Officer, AES–200.

(l) Related Information

Refer to MCAI European Aviation Safety Agency Airworthiness Directive 2011–0078, dated May 5, 2011; and Saab Service Bulletin 340–27–100, dated February 1, 2011; for related information.

(m) Material Incorporated by Reference

(1) The Director of the Federal Register approved the incorporation by reference (IBR) of the following service information under 5 U.S.C. 552(a) and 1 CFR part 51.

(2) You must use the following service information to do the actions required by this AD, unless the AD specifies otherwise.

(i) Saab Service Bulletin 340–27–100, dated February 1, 2011.

(3) For service information identified in this AD, contact Saab AB, Saab Aerosystems, SE–581 88, Linköping, Sweden; telephone +46 13 18 5591; fax +46 13 18 4874; email *saab2000.techsupport@saabgroup.com;* Internet *http://www.saabgroup.com.*

(4) You may review copies of the service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

(5) You may also review copies of the service information that is incorporated by reference at the National Archives and Records Administration (NARA). For information on the availability of this material at an NARA facility, call 202–741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

Issued in Renton, Washington, on June 15, 2012.

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–15426 Filed 6–27–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2011–1142; Airspace Docket No. 11–AGL–22]

Amendment of Class D Airspace; Pontiac, MI

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule, technical amendment.

SUMMARY: This action amends Class D airspace within the Pontiac, MI, area by changing the name of the airport from

Oakland-Pontiac Airport to Oakland County International Airport and updating the geographic coordinates. This action does not change the boundaries or operating requirements of the airspace.

DATES: *Effective date:* July 30, 2012. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Scott Enander, Central Service Center, Operations Support Group, Federal Aviation Administration, Southwest Region, 2601 Meacham Blvd., Fort Worth, TX 76137; telephone 817–321–7716.

SUPPLEMENTARY INFORMATION:

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by changing the airport formerly known as Oakland-Pontiac Airport to Oakland County International Airport and adjusting the geographic coordinates within Class D airspace to coincide with the FAAs aeronautical database. This is an administrative change and does not affect the boundaries, altitudes, or operating requirements of the airspace, therefore, notice and public procedures under 5 U.S.C. 553(b) are unnecessary.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends controlled airspace at Oakland County International Airport, Pontiac, MI.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D, AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E. O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9V, Airspace Designations and Reporting Points, dated August 9, 2011, and effective September 15, 2011, is amended as follows:

Paragraph 5000 Class D airspace.

* * * * *

AGL MI D Pontiac, MI [Amended]

Oakland County International Airport, MI
(Lat. 42°39′56″ N., long. 83°25′14″ W.)

That airspace extending upward from the surface to and including 3,500 feet MSL within a 4.2-mile radius of Oakland County International Airport. This Class D airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Issued in Fort Worth, Texas, on June 13, 2012.

David P. Medina,

Manager, Operations Support Group, ATO Central Service Center.

[FR Doc. 2012–15706 Filed 6–27–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2012–0196; Airspace Docket No. 12–AWP–2]

Amendment of Class E Airspace; Fairfield, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E airspace at Travis Air Force Base (AFB), Fairfield, CA. The projected decommissioning of the Travis VHF Omni-Directional Radio Range (VOR) has made this action necessary for the safety and management of Instrument Flight Rules (IFR) operations at the airport.

DATES: Effective date, 0901 UTC, September 20, 2012. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Eldon Taylor, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4537.

SUPPLEMENTARY INFORMATION:

History

On April 18, 2012, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to amend controlled airspace at Fairfield, CA (77 FR 23171). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. Two comments were received in favor of the airspace amendment. Except for a minor editorial change, this rule is the same as published in the NPRM.

Class E airspace designations are published in paragraph 6004, of FAA Order 7400.9V dated August 9, 2011, and effective September 15, 2011, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in that Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by amending Class E airspace designated as an extension to Class D surface area at Travis AFB, Fairfield, CA. Airspace reconfiguration is necessary due to the

projected decommissioning of the Travis VOR, and enhances the safety and management of IFR operations at the airport.

The FAA has determined this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 discusses the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends controlled airspace at Travis AFB, Fairfield, CA.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures,'' paragraph 311a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9V, Airspace Designations and Reporting Points, dated August 9, 2011, and effective September 15, 2011 is amended as follows:

Paragraph 6004 Class E airspace designated as an extension to a class D surface area.

* * * * *

AWP CA E4 Fairfield, CA [Amended]

Fairfield, Travis AFB, CA

(Lat. 38°15′46″ N., long. 121°55′39″ W.)

That airspace extending upward from the surface within 1.8 miles each side of the Travis AFB 047° bearing, extending from the 4.3-mile radius of Travis AFB to 8.7 miles northeast of Travis AFB, and within 1.8 miles each side of the Travis AFB 227° bearing extending from the 4.3-mile radius of the airport to 8.7 miles southwest of Travis AFB, and within 3.7 miles northwest and 1.8 miles southeast of the Travis AFB 236° bearing extending from the 4.3-mile radius of the airport to 5.6 miles southwest of Travis AFB.

Issued in Seattle, Washington, on June 15, 2012.

John Warner,

Manager, Operations Support Group, Western Service Center.

[FR Doc. 2012–15754 Filed 6–27–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2012–0139; Airspace Docket No. 12–ANM–3]

Amendment of Class E Airspace; Livingston, MT

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E airspace at Livingston, Mission Field Airport, Livingston, MT. Decommissioning of the Livingston Tactical Air Navigation System (TACAN) has made this action necessary for the safety and management of Instrument Flight Rules (IFR) operations at the airport. Also, the geographic coordinates of the airport are updated at the request of National Aeronautical Navigation Services.

DATES: Effective date, 0901 UTC, September 20, 2012. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Eldon Taylor, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4537.

SUPPLEMENTARY INFORMATION:

History

On April 3, 2012, the FAA published in the **Federal Register** a notice of proposed rulemaking to amend controlled airspace at Livingston, MT (77 FR 19953). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6002 of FAA Order 7400.9V dated August 9, 2011, and effective September 15, 2011, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in that Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by amending Class E surface airspace at Livingston, Mission Field Airport, Livingston, MT. Airspace reconfiguration is necessary due to the decommissioning of the Livingston TACAN. Also, the geographic coordinates of the airport are updated to coincide with the FAA's aeronautical database. This action is necessary for the safety and management of IFR operations.

The FAA has determined this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air

traffic procedures and air navigation, it is certified this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 discusses the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends controlled airspace at Livingston, Mission Field Airport, Livingston, MT.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures,'' paragraph 311a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9V, Airspace Designations and Reporting Points, dated August 9, 2011, and effective September 15, 2011 is amended as follows:

Paragraph 6002 Class E airspace designated as surface areas.

* * * * *

ANM MT E2 Livingston, MT [Modified]

Livingston, Mission Field, MT
(Lat. 45°41′58″ N., long. 110°26′53″ W.)

Within a 4.1-mile radius of Mission Field Airport, and within 2.7 miles each side of the Mission Field Airport 340° bearing extending from the 4.1-mile radius to 7 miles north of the airport. This Class E airspace area is effective during the specific dates and times established in advance by a Notice to Airmen. The effective date and time will thereafter be continuously published in the Airport/Facility Directory.

Issued in Seattle, Washington, on June 18, 2012.

Vered Lovett,

Acting Manager, Operations Support Group, Western Service Center.

[FR Doc. 2012–15755 Filed 6–27–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2012–0345; Airspace Docket No. 12–AWP–3]

Amendment of Class E Airspace; Woodland, CA

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends Class E airspace at Watts-Woodland Airport, Woodland, CA. The projected decommissioning of the Travis VHF Omni-Directional Radio Range (VOR) has made this action necessary for the safety and management of Instrument Flight Rules (IFR) operations at the airport. This action also makes a minor adjustment to the geographic coordinates of the airport.

DATES: Effective date, 0901 UTC, September 20, 2012. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Eldon Taylor, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4537.

SUPPLEMENTARY INFORMATION:

History

On April 18, 2012, the FAA published in the **Federal Register** a notice of proposed rulemaking (NPRM) to amend controlled airspace at Woodland, CA (77 FR 23172). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received. Subsequent to publication the National Aeronautical Navigation Services requested a minor adjustment to the geographic coordinates of the airport be made. Except for a minor editorial change, this rule is the same as published in the NPRM.

Class E airspace designations are published in paragraph 6005, of FAA Order 7400.9V dated August 9, 2011, and effective September 15, 2011, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in that Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by amending Class E airspace extending upward from 700 feet above the surface, at Watts-Woodland Airport, Woodland, CA. Airspace reconfiguration is necessary due to the projected decommissioning of the Travis VOR, and enhances the safety and management of IFR operations at the airport. The geographic coordinates of the airport are adjusted to coincide with the FAA's aeronautical database.

The FAA has determined this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 discusses the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with

prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it amends controlled airspace at Watts-Woodland Airport, Woodland, CA.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures,'' paragraph 311a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9V, Airspace Designations and Reporting Points, dated August 9, 2011, and effective September 15, 2011 is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AWP CA E5 Woodland, CA [Amended]

Woodland, Watts-Woodland Airport, CA
(Lat. 38°40′26″ N., long. 121°52′19″ W.)

That airspace extending upward from 700 feet above the surface within a 2.6-mile radius of Watts-Woodland Airport, and within 2.6 miles each side of the Watts-Woodland Airport 133° bearing extending from the 2.6-mile radius to 8.1 miles southeast of Watts-Woodland Airport, and within 1.8 miles each side of the Watts-Woodland Airport 172° bearing extending from the 2.6-mile radius to 6 miles south of the airport, and within 1.9 miles each side of the Watts-Woodland Airport 345° bearing extending from the 2.6-mile radius to 7 miles north of the airport.

Issued in Seattle, Washington, on June 19, 2012.

Vered Lovett,

Acting Manager, Operations Support Group, Western Service Center.

[FR Doc. 2012–15699 Filed 6–27–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2011–1333; Airspace Docket No. 11–AWP–19]

Establishment of Class E Airspace; Eureka, NV

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action establishes Class E airspace at Eureka, NV, to accommodate aircraft using a new Area Navigation (RNAV) Global Positioning System (GPS) standard instrument approach procedures at Eureka Airport, Eureka, NV. This improves the safety and management of Instrument Flight Rules (IFR) operations at the airport.

DATES: Effective date, 0901 UTC, September 20, 2012. The Director of the Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Eldon Taylor, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4537.

SUPPLEMENTARY INFORMATION:

History

On April 10, 2012, the FAA published in the **Federal Register** a notice of proposed rulemaking to establish controlled airspace at Eureka, NV (77 FR 21509). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal to the FAA. No comments were received.

Class E airspace designations are published in paragraph 6005, of FAA Order 7400.9V dated August 9, 2011, and effective September 15, 2011, which is incorporated by reference in 14 CFR 71.1. The Class E airspace designations listed in this document will be published subsequently in that Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) Part 71 by establishing Class E airspace extending upward from 700 feet above the surface, at Eureka Airport, to accommodate IFR aircraft executing a new RNAV (GPS) standard instrument approach procedures at the airport. This action is necessary for the safety and management of IFR operations.

The FAA has determined this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act. The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106 discusses the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it establishes controlled airspace at Eureka Airport, Eureka, NV.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures,'' paragraph 311a. This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

In consideration of the foregoing, the Federal Aviation Administration amends 14 CFR part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

■ 1. The authority citation for 14 CFR part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of the Federal Aviation Administration Order 7400.9V, Airspace Designations and Reporting Points, dated August 9, 2011, and effective September 15, 2011 is amended as follows:

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

AWP NV E5 Eureka, NV [New]

Eureka Airport, NV
(Lat. 39°36′14″ N., long. 116°00′13″ W.)

That airspace extending upward from 700 feet above the surface within a 6.6-mile radius of the Eureka Airport; and within 1.5 miles either side of the 011° bearing of the airport extending from the 6.6-mile radius to 10 miles north of Eureka airport; that airspace extending upward from 1,200 feet above the surface within an area bounded by lat. 40°35′00″ N., long. 115°57′00″ W.; to lat. 40°30′00″ N., long. 115°39′00″ W.; to lat. 40°07′00″ N., long. 115°26′00″ W.; to lat. 39°58′00″ N., long. 115°51′00″ W.; to lat. 39°30′00″ N., long. 115°51′00″ W.; to lat. 39°19′00″ N., long. 115°47′00″ W.; to lat. 39°18′00″ N., long. 115°36′00″ W.; to lat. 39°20′00″ N., long. 115°14′00″ W.; to lat. 39°08′00″ N., long. 115°10′00″ W.; to lat. 39°06′00″ N., long. 115°57′00″ W.; to lat. 39°16′00″ N., long. 116°05′00″ W.; to lat. 39°22′00″ N., long. 116°12′00″ W.; to lat. 39°43′00″ N., long. 116°08′00″ W.; to lat. 40°08′00″ N., long. 116°02′00″ W., thence to the point of beginning.

Issued in Seattle, Washington, on June 18, 2012.

Vered Lovett,

Acting Manager, Operations Support Group, Western Service Center.

[FR Doc. 2012–15701 Filed 6–27–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 95

[Docket No.30850; Amdt. No. 501]

IFR Altitudes; Miscellaneous Amendments

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This amendment adopts miscellaneous amendments to the required IFR (instrument flight rules) altitudes and changeover points for certain Federal airways, jet routes, or direct routes for which a minimum or maximum en route authorized IFR altitude is prescribed. This regulatory action is needed because of changes occurring in the NationalAirspace System. These changes are designed to provide for the safe and efficient use of the navigable airspace under instrument conditions in the affected areas.

DATES: *Effective date* 0901 UTC, July 26, 2012.

FOR FURTHER INFORMATION CONTACT: Rick Dunham, Flight Procedure Standards Branch (AMCAFS–420), Flight Technologies and Programs Division, Flight Standards Service, FederalAviation Administration, Mike Monroney Aeronautical Center, 6500 South MacArthur Blvd., Oklahoma City, OK 73169 (Mail Address: P.O. Box 25082 Oklahoma City, OK 73125) telephone: (405) 954–4164.

SUPPLEMENTARY INFORMATION: This amendment to part 95 of the Federal Aviation Regulations (14 CFR part 95) amends, suspends, or revokes IFR altitudes governing the operation of all aircraft in flight over a specified route or any portion of that route, as well as the changeover points (COPs) for Federal airways, jet routes, or direct routes as prescribed in part 95.

The Rule

The specified IFR altitudes, when used in conjunction with the prescribed changeover points or those routes, ensure navigation aid coverage that is adequate for safe flight operations and free of frequency interference. The reasons and circumstances that create the need for this amendment involve matters of flight safety and operational efficiency in the National Airspace System, are related to published aeronautical charts that are essential to the user, and provide for the safe and efficient use of the navigable airspace. In addition, those various reasons or circumstances require making this amendment effective before the next scheduled charting and publication date of the flight information to assure its timely availability to the user. The effective date of this amendment reflects those considerations. In view of the close and immediate relationship between these regulatory changes and safety in air commerce, I find that notice and public procedure before adopting this amendment are impracticable and contrary to the public interest and that good cause exists for making the amendment effective in less than 30 days.

Conclusion

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. It, therefore—(1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policiesand Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. For the same reason, the FAA certifies that this amendment will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 95

Airspace, Navigation (air).

Issued in Washington, DC, on June 22, 2012.

John M. Allen,

Deputy Director, Flight Standards Service.

Adoption of the Amendment

Accordingly, pursuant to the authority delegated to me by the Administrator, part 95 of the Federal Aviation Regulations (14 CFR part 95) is amended as follows effective at 0901 UTC, July 26, 2012.

■ 1. The authority citation for part 95 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40106, 40113, 40114, 40120, 44502, 44514, 44719, 44721.

■ 2. Part 95 is amended to read as follows:

PART 95—[AMENDED]

REVISIONS TO IFR ALTITUDES & CHANGEOVER POINTS

[Amendment 501 effective date July 26, 2012]

From	To	MEA	MAA
§ 95.3000 Low Altitude RNAV Routes			
§ 95.3306 RNAV Route T306 is Added to Read			
LOS ANGELES, CA VORTAC	PRADO, CA FIX	4000	17500
PRADO, CA FIX	PARADISE, CA VORTAC	5000	17500
PARADISE, CA VORTAC	*SETER, CA FIX	5500	17500
*12100—MCA SETER, CA FIX, E BND			
SETER, CA FIX	BANDS, CA FIX	9000	17500
BANDS, CA FIX	*PALM SPRINGS, CA VORTAC	13000	17500
*11800—MCA PALM SPRINGS, CA VORTAC, W BND			
PALM SPRINGS, CA VORTAC	BLYTHE, CA VORTAC	8000	17500
BLYTHE, CA VORTAC	BUCKEYE, AZ VORTAC	6000	17500
BUCKEYE, AZ VORTAC	PERKY, AZ FIX	5000	17500
PERKY, AZ FIX	PHOENIX, AZ VORTAC	4000	17500
PHOENIX, AZ VORTAC	*TOTEC, AZ FIX	5000	17500
*5500—MCA TOTEC, AZ FIX, E BND			
TOTEC, AZ FIX	TUCSON, AZ VORTAC	6500	17500
TUCSON, AZ VORTAC	NOCHI, AZ FIX	10700	17500
NOCHI, AZ FIX	ANIMA, NM FIX	10700	17500
ANIMA, NM FIX	DARCE, NM FIX	9000	17500
DARCE, NM FIX	COLUMBUS, NM VOR/DME	*9000	17500
*8200—MOCA			
COLUMBUS, NM VOR/DME	EL PASO, TX VORTAC	9000	17500
§ 95.3310 RNAV Route T310 is Added to Read			
TUCSON, AZ VORTAC	*SULLI, AZ FIX	8000	17500
*9200—MCA SULLI, AZ FIX, E BND			
SULLI, AZ FIX	MESCA, AZ FIX	10000	17500
MESCA, AZ FIX	NOCHI, AZ FIX	10000	17500
NOCHI, AZ FIX	SAN SIMON, AZ VORTAC	10000	17500
SAN SIMON, AZ VORTAC	SILVER CITY, NM VORTAC	10300	17500
SILVER CITY, NM VORTAC	KEAPS, NM FIX	10300	17500
*11600—MCA KEAPS, NM FIX, NE BND			
KEAPS, NM FIX	TRUTH OR CONSEQUENCES, NM VORTAC.	12300	17500
§ 95.4000 High Altitude RNAV Routes			
§ 95.4130 RNAV Route Q130 is Amended to Read in Part			
REANA, NV FIX	ROCCY, UT FIX	*28000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
ROCCY, UT FIX	RATTLESNAKE, NM VORTAC	*22000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
§ 95.4148 RNAV Route Q148 is Amended to Read in Part			
STEVS, WA FIX	ZAXUL, WA FIX	*18000	45000
*GNSS MEA			
*DME/DME/IRU MEA			
ZAXUL, WA FIX	FINUT, WA FIX	*24000	45000
*18000—GNSS MEA			
*DME/DME/IRU MEA			
§ 95.4150 RNAV Route Q150 is Amended to Read in Part			
STEVS, WA FIX	ZAXUL, WA FIX	*18000	45000
*GNSS MEA			
*DME/DME/IRU MEA			

From	To	MEA
§ 95.6001 Victor Routes—U.S.		
§ 95.6016 VOR Federal Airway V16 is Amended to Delete		
TUCSON, AZ VORTAC	COCHISE, AZ VORTAC	10500
COCHISE, AZ VORTAC	ANIMA, NM FIX	11000

From	To	MEA
As Amended to Read in Part		
PRADO, CA FIX	PARADISE, CA VORTAC	5000
SETER, CA FIX	BANDS, CA FIX.	
	E BND	13000
	W BND	9000
BANDS, CA FIX	*PALM SPRINGS, CA VORTAC	13000
*11800—MCA PALM SPRINGS, CA VORTAC, W BND		
PALM SPRINGS, CA VORTAC	BLYTHE, CA VORTAC	8000
BLYTHE, CA VORTAC	BUCKEYE, AZ VORTAC	6000
PERKY, AZ FIX	PHOENIX, AZ VORTAC	4000
TOTEC, AZ FIX	TUCSON, AZ VORTAC	6500
TUCSON, AZ VORTAC	SAN SIMON, AZ VORTAC	11500
SAN SIMON, AZ VORTAC	ANIMA, NM FIX	8000
ANIMA, NM FIX	DARCE, NM FIX	9000
§ 95.6063 VOR Federal Airway V63 is Amended to Read in Part		
PLADD, MO FIX	BARTI, MO FIX	*6000
*2600—MOCA		
BARTI, MO FIX	HALLSVILLE, MO VORTAC	3100
§ 95.6066 VOR Federal Airway V66 is Amended to Read in Part		
TUCSON, AZ VORTAC	*SULLI, AZ FIX	**8000
*9200—MCA SULLI, AZ FIX, E BND		
**7200—MOCA		
SULLI, AZ FIX	DOUGLAS, AZ VORTAC	10000
§ 95.6070 VOR Federal Airway V70 is Amended to Read in Part		
BROWNSVILLE, TX VORTAC	RAYMO, TX FIX.	
	N BND	*3800
	S BND	*1600
*1600—GNSS MEA		
RAYMO, TX FIX	JIMIE, TX FIX.	
	N BND	*6000
	S BND	*4000
*1600—MOCA		
*2000—GNSS MEA		
JIMIE, TX FIX	JETTY, TX FIX	*6000
*1800—MOCA		
*2000—GNSS MEA		
JETTY, TX FIX	CORPUS CHRISTI, TX VORTAC.	
	N BND	*2100
	S BND	*3800
*2100—GNSS MEA		
§ 95.6088 VOR Federal Airway V88 is Amended to Read in Part		
TULSA, OK VORTAC	VINTA, OK FIX	2700
NARCI, OK FIX	WACCO, MO FIX	*6200
*3100—MOCA		
*4000—GNSS MEA		
WACCO, MO FIX	SPRINGFFIELD, MO VORTAC	3000
§ 95.6094 VOR Federal Airway V94 is Amended to Read in Part		
BLYTHE, CA VORTAC	VICKO, AZ FIX	6000
§ 95.6140 VOR Federal Airway V140 is Amended to Read in Part		
SAYRE, OK VORTAC	ODINS, OK FIX	4000
ODINS, OK FIX	KINGFISHER, OK VORTAC	3500
§ 95.6172 VOR Federal Airway V172 is Amended to Read in Part		
OMAHA, IA VORTAC	WUNOT, IA FIX.	
	NE BND	5500
	SW BND	4000
§ 95.6187 VOR Federal Airway V187 is Amended to Read in Part		
NEZ PERCE, ID VOR/DME	POTOR, WA FIX	*6000
*5300—MOCA		

From	To	MEA
POTOR, WA FIX	*DATES, WA FIX	7200
*4200—MCA DATES, WA FIX, E BND		
§ 95.6202 VOR Federal Airway V202 is Amended to Delete		
TUCSON, AZ VORTAC	SULLI, AZ FIX	8000
SULLI, AZ FIX	MESCA, AZ FIX.	
	E BND	9500
	W BND	8000
MESCA, AZ FIX	COCHISE, AZ VORTAC	9500
COCHISE, AZ VORTAC	SAN SIMON, AZ VORTAC	10000
Is Amended to Read in Part		
SAN SIMON, AZ VORTAC	SILVER CITY, NM VORTAC	10300
SILVER CITY, NM VORTAC	*KEAPS, NM FIX	10300
*11600—MCA KEAPS, NM FIX, NE BND		
KEAPS, NM FIX	TRUTH OR CONSEQUENCES, NM VORTAC	12300
§ 95.6210 VOR Federal Airway V210 is Amended to Read in Part		
LIBERAL, KS VORTAC	ROLLS, OK FIX	*12000
*4400—MOCA		
*5000—GNSS MEA		
ROLLS, OK FIX	*WAXEY, OK FIX.	
	W BND	*11000
	E BND	*9300
*3800—MOCA		
*4000—GNSS MEA		
WAXEY, OK FIX	WILL ROGERS, OK VORTAC.	
	W BND	*9300
	E BND	*5000
*3300—MOCA		
*4000—GNSS MEA		
§ 95.6219 VOR Federal Airway V219 is Amended to Read in Part		
SIOUX CITY, IA VORTAC	RITTA, IA FIX.	
	NE BND	*9000
	SW BND	*4500
*3300—MOCA		
MILSS, IA FIX	FAIRMONT, MN VOR/DME	8000
§ 95.6289 VOR Federal Airway V289 is Amended to Read in Part		
FORT SMITH, AR VORTAC	MULBY, AR FIX.	
	SW BND	3300
	NE BND	4000
§ 95.6290 VOR Federal Airway V290 is Amended to Read in Part		
TAR RIVER, NC VORTAC	KENIR, NC FIX	*4000
*1600—MOCA		
*2000—GNSS MEA		
KENIR, NC FIX	PUNGO, NC FIX	*5000
*1500—MOCA		
*2000—GNSS MEA		
§ 95.6310 VOR Federal Airway V310 is Amended to Read in Part		
TAR RIVER, NC VORTAC	ELIZABETH CITY, NC VOR/DME	*4000
*1600—MOCA		
*2000—GNSS MEA		
§ 95.6361 VOR Federal Airway V361 is Amended to Read in Part		
KREMMLING, CO VOR/DME	*ALLAN, CO FIX	**16000
*16000—MRA		
**15400—MOCA		
*MTA V361 SW TO V85 SE 14700		
*MTA V361 SW TO V85 NW 16500		
§ 95.6366 VOR Federal Airway V366 is Amended to Read in Part		
HUGO, CO VOR/DME	FALCON, CO VORTAC	8500

From	To	MEA
§ 95.6370 VOR Federal Airway V370 is Amended to Read in Part		
PRADO,	CA FIX PARADISE, CA VORTAC	5000
SETER, CA FIX	BANDS, CA FIX.	
	E BND	13000
	W BND	9000
BANDS, CA FIX	*PALM SPRINGS, CA VORTAC	13000
*11800—MCA PALM SPRINGS, CA VORTAC, W BND *6200—MCA PALM SPRINGS, CA VORTAC, NE BND		
§ 95.6372 VOR Federal Airway V372 is Amended to Read in Part		
HOMELAND, CA VOR	BANDS, CA FIX.	
	E BND	13000
	W BND	8000
BANDS, CA FIX	*PALM SPRINGS, CA VORTAC	13000
*11800—MCA PALM SPRINGS, CA VORTAC, W BND		
PALM SPRINGS, CA VORTAC	BLYTHE, CA VORTAC	8000
§ 95.6374 VOR Federal Airway V374 is Amended to Read in Part		
MARTHAS VINEYARD, MA VOR/DME	MINNK, RI FIX	*3000
*1600—MOCA		
MINNK, RI FIX	GROTON, CT VOR/DME	*3000
*1500—MOCA		
§ 95.6405 VOR Federal Airway V405 is Amended to Read in Part		
FALMA, RI FIX	MARTHAS VINEYARD, MA VOR/DME	*3000
*1600—MOCA		
§ 95.6495 VOR Federal Airway V495 is Amended to Read in Part		
JAWBN, WA FIX	LOFAL, WA FIX	*5400
*4300—MOCA		
§ 95.6507 VOR Federal Airway V507 is Amended to Read in Part		
WILL ROGERS, OK VORTAC	WAXEY, OK FIX.	
	N BND	9300
	S BND	*5000
*3300—MOCA		
*4000—GNSS MEA		
*WAXEY, OK FIX	ROLLS, OK FIX.	
	N BND	*11000
	S BND	*9300
*3800—MOCA		
*4000—GNSS MEA		
ROLLS, OK FIX	MITBEE, OK VORTAC.	
	N BND	*4000
	S BND	*9300
*4000—GNSS MEA		
§ 95.6438 Alaska VOR Federal Airway V438 is Amended to Read in Part		
ANCHORAGE, AK VOR/DME	*BIG LAKE, AK VORTAC	2000
*2600—MCA BIG LAKE, AK VORTAC, N BND		

From	To	MEA	MAA
§ 95.7001 Jet Routes **§ 95.7002 Jet Route J2 is Amended to Delete**			
GILA BEND, AZ VORTAC	COCHISE, AZ VORTAC	18000	45000
COCHISE, AZ VORTAC	EL PASO, TX VORTAC	18000	45000
Is Amended to Add in Part			
GILA BEND, AZ VORTAC	TUCSON, AZ VORTAC	18000	45000
TUCSON, AZ VORTAC	EL PASO, TX VORTAC	18000	45000

Airway Segment		Changeover Points	
From	To	Distance	From
§ 95.8003 VOR Federal Airway Changeover Points V159 Is Amended to Delete Changeover Point			
VERO BEACH, FL VORTAC	ORLANDO, FL VORTAC	32	VERO BEACH.
V495 Is Amended to Add Changeover Point			
VICTORIA, VOR/DME	SEATTLE, WA VORTAC	41	VICTORIA.

[FR Doc. 2012–15909 Filed 6–27–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[Docket No. USCG–2012–0578]

Drawbridge Operation Regulation; Three Mile Slough, Rio Vista, CA

AGENCY: Coast Guard, DHS.

ACTION: Notice of temporary deviation from regulations.

SUMMARY: The Coast Guard has issued a temporary deviation from the operating regulation that governs the Hwy 160 drawbridge across Three Mile Slough, mile 0.1, at Rio Vista, CA. The deviation is necessary to allow California Department of Transportation to install electrical equipment on the drawbridge. This deviation allows the vertical lift drawspan to be secured closed to navigation at various times during the project.

DATES: This deviation is effective from 8 p.m. July 9, 2012 to 5 a.m. July 12, 2012.

ADDRESSES: Documents mentioned in this preamble as being available in the docket are part of the docket USCG–2012–0578 and are available online by going to *http://www.regulations.gov,* inserting USCG–2012–0578 in the ''Keyword'' box and then clicking ''Search''. They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this rule, call or email David H. Sulouff, Chief, Bridge Section, Eleventh Coast Guard District; telephone 510–437–3516, email *David.H.Sulouff@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION: The California Department of Transportation has requested a temporary change to the operation of the Hwy 160 drawbridge across Three Mile Slough, mile 0.1, at Rio Vista, CA. The drawbridge navigation span provides a vertical clearance of 12 feet above Mean High Water in the closed-to-navigation position. The draw opens on signal for the passage of vessels as required by 33 CFR 117.5. Navigation on the waterway is commercial and recreational.

The vertical lift drawspan may be secured in the closed-to-navigation position from 8 p.m. to 5 a.m., July 9, 2012 to July 12, 2012, to allow Caltrans to install electrical equipment on the drawbridge. Vessels that can pass through the bridge in the closed to navigation position may continue to do so at any time. The drawspan can be opened upon one hour advance notice for emergencies if requested. An alternative path is available for navigation via the confluence of the Sacrament and San Joaquin Rivers. The drawspan will resume normal operation each day between 5 a.m. and 8 p.m. and at the conclusion of the project. This temporary deviation has been coordinated with waterway users. No objections to the proposed temporary deviation were raised.

In accordance with 33 CFR 117.35(e), the drawbridge must return to its regular operating schedule immediately at the end of the designated time period. This deviation from the operating regulations is authorized under 33 CFR 117.35.

Dated: June 14, 2012.

D.H. Sulouff,

District Bridge Chief, Eleventh Coast Guard District.

[FR Doc. 2012–15818 Filed 6–27–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2012–0481]

RIN 1625–AA00

Safety Zone; Oswego Independence Celebration Fireworks, Oswego Harbor, Oswego, NY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on Oswego Harbor, Oswego, NY. This safety zone is intended to restrict vessels from a portion of Oswego Harbor during the Oswego Independence Celebration Fireworks display. This temporary safety zone is necessary to protect spectators and vessels from the hazards associated with a fireworks display.

DATES: This rule will be effective from 9:00 p.m. until 10:45 p.m. on July 1, 2012.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2012–0481]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box, and click ''Search.'' You may visit the Docket Management Facility, Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or email LT Christopher Mercurio, Chief of Waterways Management, U.S. Coast Guard Sector Buffalo; telephone 716–843–9343, email *SectorBuffaloMarineSafety@uscg.mil.* If you have questions on viewing or submitting material to the docket, call

Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR **Federal Register**
NPRM Notice of Proposed Rulemaking

A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable. The final details for this event were not known to the Coast Guard until there was insufficient time remaining before the event to publish an NPRM. Thus, delaying the effective date of this rule to wait for a comment period to run would be both impracticable and contrary to the public interest because it would inhibit the Coast Guard's ability to protect spectators and vessels from the hazards associated with a maritime fireworks display, which are discussed further below.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. For the same reasons discussed in the preceding paragraph, waiting for 30 day notice period run would be impracticable and contrary to the public interest.

B. Basis and Purpose

Between 9:30 p.m. and 10:15 p.m. on July 1, 2012, a fireworks display will be held on Oswego Harbor near Oswego, NY. The Captain of the Port Buffalo has determined that fireworks launched proximate to a gathering of watercraft pose a significant risk to public safety and property. Such hazards include premature and accidental detonations, dangerous projectiles, and falling or burning debris.

C. Discussion of Rule

With the aforementioned hazards in mind, the Captain of the Port Buffalo has determined that this temporary safety zone is necessary to ensure the safety of spectators and vessels during the Oswego Independence Celebration Fireworks. This zone will be effective and enforced from 9:00 p.m. until 10:45 p.m. on July 01, 2012. This zone will encompass all waters of Oswego Harbor, Oswego, NY within an 840 foot radius of position 43°27′55.7″ N and 76°30′58.9″ W (NAD 83).

Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 14 of these statutes or executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS). We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zone created by this rule will be relatively small and enforced for relatively short time. Also, the safety zone is designed to minimize its impact on navigable waters. Furthermore, the safety zone has been designed to allow vessels to transit around it. Thus, restrictions on vessel movement within that particular area are expected to be minimal. Under certain conditions, moreover, vessels may still transit through the safety zone when permitted by the Captain of the Port.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which might be small entities: the owners or operators of vessels intending to transit or anchor in a portion of the Oswego Harbor on the evening of July 1, 2012.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This safety zone would be activated, and thus subject to enforcement, for only two hours early in the day. Traffic may be allowed to pass through the zone with the permission of the Captain of the Port. The Captain of the Port can be reached via VHF channel 16. Before the activation of the zone, we would issue local Broadcast Notice to Mariners.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship

between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference With Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination With Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a ''significant energy action'' under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of a safety zone and, therefore it is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapters 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T09–0481 to read as follows:

§ 165.T09–0481 Safety Zone; Oswego Independence Celebration Fireworks, Oswego Harbor, Oswego, NY.

(a) Location. The safety zone will encompass all waters of the Oswego Harbor, Oswego, NY within an 840 foot radius of position 43°27′55.7″ N and 76°30′58.9″ W (NAD 83).

(b) Effective and Enforcement Period. This regulation is effective and will be enforced on July 1, 2012 from 9:00 p.m. until 10:45 p.m.

(c) Regulations.

(1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Buffalo or his designated on-scene representative.

(3) The ''on-scene representative'' of the Captain of the Port Buffalo is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Buffalo to act on his behalf.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Buffalo or his on-scene representative to obtain permission to do so. The Captain of the Port Buffalo or his on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Buffalo, or his on-scene representative.

Dated: June 12, 2012.

S.M. Wischmann,

Captain, U.S. Coast Guard, Captain of the Port Buffalo.

[FR Doc. 2012–15815 Filed 6–27–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2012–0380]

Safety Zones; Annual Fireworks Events in the Captain of the Port Detroit Zone

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce various safety zones for annual fireworks events in the Captain of the Port Detroit zone from 9:30 p.m. on June 18, 2012 through 11:59 p.m. on September 2, 2012. This action is necessary and intended to ensure safety of life on the navigable waters immediately prior to, during, and immediately after fireworks events. During the aforementioned period, the Coast Guard will enforce restrictions upon, and control movement of, vessels in a specified area immediately prior to, during, and immediately after fireworks events. During each enforcement period, no person or vessel may enter the respective safety zone without permission of the Captain of the Port.

DATES: The regulations in 33 CFR 165.941 will be enforced at various times between 9:30 p.m. on June 18, 2012 through 11:59 p.m. on September 2, 2012.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email LT Adrian Palomeque, Prevention, U.S. Coast Guard Sector Detroit, 110 Mount Elliot Ave., Detroit MI, 48207; telephone (313) 568–9508, email *Adrian.F.Palomeque@uscg.mil.*

SUPPLEMENTARY INFORMATION: The Coast Guard will enforce the safety zones listed in 33 CFR 165.941, Safety Zones; Annual Fireworks Events in the Captain of the Port Detroit Zone, at the following dates and times for the following events:

(1) *Bay-Rama Fishfly Festival Fireworks, New Baltimore, MI.*

The safety zone listed in 33 CFR 165.941(a)(30) will be enforced from 9:00 p.m. to 11:00 p.m. on June 21, 2012. In the case of inclement weather on June 21, 2012, this safety zone will be enforced from 9:00 p.m. to 11:00 p.m. on June 22, 2012. In the case of inclement weather on June 22, 2012, this safety zone will be enforced from 9:00 p.m. to 11:00 p.m. on June 23, 2012.

(2) *St. Clair Shores Fireworks, St. Clair Shores, MI.*

The safety zone listed in 33 CFR 165.941(a)(40) will be enforced from 10:00 p.m. to 10:30 p.m. on June 29, 2012. In the case of inclement weather on June 29, 2012, this safety zone will be enforced from 10:00 p.m. to 10:30 p.m. on June 30, 2012.

(3) *Target Fireworks, Detroit, MI.*

The first safety zone listed in 33 CFR 165.941(a)(51) will not be enforced.

The second safety zone listed in 33 CFR 165.941(a)(51) will be enforced from 8:00 p.m. to 11:55 p.m. on June 25, 2012. In the case of inclement weather on June 25, 2012, the second safety zone will be enforced from 8:00 p.m. to 11:55 p.m. on June 26, 2012.

The third safety zone listed in 33 CFR 165.941(a)(51) will be enforced from 6:00 p.m. to 11:55 p.m. on June 25, 2012. In the case of inclement weather on June 25, 2012, the third safety zone will be enforced from 6:00 p.m. to 11:55 p.m. on June 26, 2012.

(4) *Sigma Gamma Fireworks, Grosse Pointe Farms, MI.*

The safety zone listed in 33 CFR 165.941(a)(52) will be enforced from 9:30 p.m. to 10:00 p.m. on June 18, 2012.

(5) *Harrisville Fireworks, Harrisville, MI.*

The safety zone listed in 33 CFR 165.941(a)(8) will be enforced from 9:30 p.m. to 11:30 p.m. on July 7, 2012. In the case of inclement weather on July 7, 2012, this safety zone will be enforced from 9:30 p.m. to 11:30 p.m. on July 8, 2012.

(6) *Au Gres City Fireworks, Au Gres, MI.*

The safety zone listed in 33 CFR 165.941(a)(3) will be enforced from 10:00 p.m. to 10:30 p.m. on June 30, 2012. In the case of inclement weather on June 30, 2012, this safety zone will be enforced from 10:00 p.m. to 10:30 p.m. on July 1, 2012.

(7) *Caseville Fireworks, Caseville, MI.*

The safety zone listed in 33 CFR 165.941(a)(37) will be enforced from 10:00 p.m. to 11:00 p.m. on July 3, 2012. In the case of inclement weather on July 3, 2012, this safety zone will be enforced from 10:00 p.m. to 11:00 p.m. on July 5, 2012.

(8) *Grosse Isle Yacht Club Fireworks, Grosse Isle, MI.*

The safety zone listed in 33 CFR 165.941(a)(45) will be enforced from 9:45 p.m. to 10:45 p.m. on July 3, 2012. In the case of inclement weather on July 3, 2012, this safety zone will be enforced from 9:45 p.m. to 10:45 p.m. on July 4, 2012.

(9) *Lexington Independence Festival Fireworks, Lexington, MI.*

The safety zone listed in 33 CFR 165.941(a)(43) will be enforced from 10:00 p.m. to 10:30 p.m. on June 30, 2012. In the case of inclement weather on June 30, 2012, this safety zone will be enforced from 10:00 p.m. to 10:30 p.m. on July 1, 2012.

(10) *Algonac Pickerel Tournament Fireworks, Algonac, MI.*

The safety zone listed in 33 CFR 165.941(a)(38) will be enforced from 10:00 p.m. to 10:30 p.m. on June 30, 2012. In the case of inclement weather on June 30, 2012, this safety zone will be enforced from 10:00 p.m. to 10:30 p.m. on July 3, 2012.

(11) *Grosse Pointe Farms Fireworks, Grosse Pointe Farms, MI.*

The safety zone listed in 33 CFR 165.941(a)(36) will be enforced from 10:00 p.m. to 10:30 p.m. on June 30, 2012. In the case of inclement weather on June 30, 2012, this safety zone will be enforced from 10:00 p.m. to 10:30 p.m. on July 1, 2012.

(12) *Belle Maer Harbor 4th of July Fireworks, Harrison Township, MI.*

The safety zone listed in 33 CFR 165.941(a)(47) will be enforced from 10:00 p.m. to 10:30 p.m. on July 4, 2012. In the case of inclement weather on July 4, 2012, this safety zone will be enforced from 10:00 p.m. to 10:30 p.m. on July 5, 2012.

(13) *City of St. Clair Fireworks, St. Clair, MI.*

The safety zone listed in 33 CFR 165.941(a)(32) will be enforced from 10:00 p.m. to 10:20 p.m. on July 4, 2012. In the case of inclement weather on July 4, 2012, this safety zone will be enforced from 10:00 p.m. to 10:20 p.m. on July 5, 2012.

(14) *Port Austin Fireworks, Port Austin, MI.*

The safety zone listed in 33 CFR 165.941(a)(34) will be enforced from 10:00 p.m. to 10:30 p.m. on July 4, 2012. In the case of inclement weather on July 4, 2012, this safety zone will be enforced from 10:00 p.m. to 10:30 p.m. on July 5, 2012.

(15) *Trenton Fireworks, Trenton, MI.*

The safety zone listed in 33 CFR 165.941(a)(46) will be enforced from 10:00 p.m. to 10:30 p.m. on July 4, 2012. In the case of inclement weather on July 4, 2012, this safety zone will be enforced from 10:00 p.m. to 10:30 p.m. on July 5, 2012.

(16) *Grosse Pointe Yacht Club 4th of July Fireworks, Grosse Pointe Shores, MI.*

The safety zone listed in 33 CFR 165.941(a)(42) will be enforced from 10:00 p.m. to 10:30 p.m. on July 4, 2012. In the case of inclement weather on July 4, 2012, this safety zone will be enforced from 10:00 p.m. to 10:30 p.m. on July 5, 2012.

(17) *Trenton Rotary Roar on the River Fireworks, Trenton, MI.*

The safety zone listed in 33 CFR 165.941(a)(10) will be enforced from 10:00 p.m. until 11:00 p.m. on July 20, 2012. In the case of inclement weather on July 20, 2012, this safety zone will be enforced from 10:00 p.m. until 11:00 p.m. on July 21, 2012.

(18) *Marine City Maritime Festival Fireworks, Marine City, MI.*

The safety zone listed in 33 CFR 165.941(a)(14) will be enforced from 10:00 p.m. until 10:20 p.m. on August 10, 2012. In the case of inclement weather on August 10, 2012, this safety

zone will be enforced from 10:00 p.m. until 10:20 p.m. on August 11, 2012.

(19) *Detroit International Jazz Festival Fireworks, Detroit, MI.*

The safety zone listed in 33 CFR 165.941(a)(13) will be enforced from 10:00 p.m. to 11:59 p.m. on September 1, 2012. In the case of inclement weather on September 1, 2012, this safety zone will be enforced from 10:00 p.m. to 11:59 p.m. on September 2, 2012. In the case of inclement weather on September 2, 2012, this safety zone will be enforced from 10:00 p.m. to 11:59 p.m. on September 3, 2012.

(20) *Port Sanilac 4th of July Fireworks, Port Sanilac, MI.*

The safety zone listed in 33 CFR 165.941(a)(39) will be enforced from 10:00 p.m. to 11:00 p.m. on July 7, 2012. In the case of inclement weather on July 7, 2012, this regulation will be enforced from 10:00 p.m. to 11:00 p.m. on July 8, 2012.

(21) *Tawas City 4th of July Fireworks, Tawas City, MI.*

The safety zone listed in 33 CFR 165.941(a)(48) will be enforced from 10:00 p.m. to 11:00 p.m. on July 4, 2012. In the case of inclement weather on July 4, 2012, this regulation will be enforced from 10:00 p.m. to 11:00 p.m. on July 5, 2012.

(22) *Roostertail Fireworks (barge), Detroit, MI.*

The safety zone listed in 33 CFR 165.941 (a)(1) will be enforced from 10:00 p.m. to 10:30 p.m. on June 22, 2012.

(23) *The Old Club Fireworks, Harsens Island, MI.*

The safety zone listed in 33 CFR 165.941 (a)(4) will be enforced from 10:00 p.m. to 10:20 p.m. on June 30, 2012. In the case of inclement weather on June 30, 2012, this regulation will be enforced from 10:00 p.m. to 10:20 p.m. on July 7, 2012.

Under the provisions of 33 CFR 165.23, entry into, transiting, or anchoring within anyone of these safety zones during the enforcement period is prohibited unless authorized by the Captain of the Port Detroit or his designated representative. Vessels that wish to transit through the safety zones may request permission from the Captain of the Port Detroit. Requests must be made in advance and approved by the Captain of Port before transits will be authorized. Approvals will be granted on a case by case basis. The Captain of the Port may be contacted via U.S. Coast Guard Sector Detroit on channel 16, VHF–FM. The Coast Guard will give notice to the public via Local Notice to Mariners and VHF radio broadcasts that the regulation is in effect.

This notice is issued under authority of 33 CFR 165.23 and 5 U.S.C. 552(a). If the Captain of the Port determines that any of these safety zones need not be enforced for the full duration stated in this notice, he or she may use a Broadcast Notice to Mariners to grant general permission to enter the safety zone.

Dated: June 13, 2012.

J.E. Ogden,

Captain, U.S. Coast Guard, Captain of the Port Detroit.

[FR Doc. 2012–15816 Filed 6–27–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2012–0352]

RIN 1625–AA00

Safety Zone; City of Tonawanda July 4th Celebration, Niagara River, Tonawanda, NY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard will establish a temporary safety zone on the Niagara River, Tonawanda, New York. This safety zone is intended to restrict vessels from a portion of the Niagara River during the City of Tonawanda July 4th Celebration fireworks on July 4, 2012. The safety zone is necessary to protect participants, spectators, and vessels from the hazards associated with a firework display.

DATES: This regulation will be effective July 4, 2012 from 8:45 p.m. until 10:15 p.m.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket [USCG–2012–0352]. To view documents mentioned in this preamble as being available by going to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' You may visit the Docket Management Facility, Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or email LT Christopher Mercurio, Chief of Waterway Management, U.S. Coast Guard Sector Buffalo; telephone 716–843–9343, email *SectorBuffaloMarineSafety@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR **Federal Register**
NPRM Notice of Proposed Rulemaking

A. Regulatory History and Information

On May 22, 2012, we published a notice of proposed rulemaking (NPRM) entitled Safety Zone; City of Tonawanda July 4th Celebration, Niagara River, Tonawanda, New York in the **Federal Register** (77 FR 30242). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held.

Under 5 U.S.C. 553(d)(3), the Coast Guard is issuing this temporary final rule less than 30 days after publication in the **Federal Register**. Under 5 U.S.C. 553(d)(3), an agency may issue a rule less than 30 days before its effective date when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Accordingly, the Coast Guard finds that good cause exists for publishing this temporary final rule less than 30 days before its effective date because delaying the effective date of this temporary final rule would prevent its enforcement on the scheduled night of the event and thus, would preclude the Coast Guard from protecting spectators and vessels from the hazards associated with a maritime fireworks display.

B. Basis and Purpose

Between 9:15 p.m. and 9:45 p.m. on July 4, 2012, a fireworks display will be held on the waters of the Niagara River near Tonawanda, NY. The Captain of the Port Buffalo has determined that fireworks launched proximate to watercraft pose a significant risk to public safety and property. Such hazards include premature detonations, dangerous detonations, dangerous projectiles, and falling or burning debris.

C. Discussion of Comments, Changes and the Final Rule

As mentioned above, no comments were received from the public in response to the NPRM that preceded this temporary rule. Furthermore, there were no changes made between the proposed rule and this temporary final

rule. Thus, there are no comments and no changes to discuss.

Just as was described in the NPRM, the Captain of the Port Buffalo has determined that a temporary safety zone is necessary to ensure the safety of the boating public during the City of Tonawanda July 4th Celebration Fireworks. The safety zone will be effective and enforced from 8:45 p.m. until 10:15 p.m. on July 4, 2012. The safety zone will encompass all waters of the Niagara River, Tonawanda, NY within a 1400 FT radius of position 43°01′39.59″ N, 78°53′07.48″ W (DATUM: NAD 83). Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS). We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zone created by this rule will be relatively small and enforced for relatively short time. Also, the safety zone is designed to minimize its impact on navigable waters. Furthermore, the safety zone has been designed to allow vessels to transit around it. Thus, restrictions on vessel movement within that particular area are expected to be minimal. Under certain conditions, moreover, vessels may still transit through the safety zone when permitted by the Captain of the Port.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The Coast Guard received 0 comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This temporary final rule may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit or anchor in a portion of the Niagara River near Tonawanda, New York between 8:45 p.m. to 10:15 p.m. on July 4, 2012.

This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons. This safety zone would be activated, and thus subject to enforcement, for only 90 minutes late in the day when vessel traffic is low. Vessel traffic could pass safely around the safety zone. Before the effective period, maritime advisories will be issued, which include a Broadcast Notice to Mariners.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

7. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

8. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

9. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

10. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and

responsibilities between the Federal Government and Indian tribes.

11. Energy Effects

This action is not a ''significant energy action'' under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

12. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

13. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of a safety zone and thus, is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapters 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T09–0352 to read as follows:

§ 165.T09–0352 Safety Zone; City of Tonawanda July 4th Celebration, Niagara River, Tonawanda, NY

(a) *Location.* The safety zone will encompass all waters of the Niagara River, Tonawanda, NY within a 1,400 FT radius of position 43°01′39.59″ N and 78°53′07.48″ W (NAD 83).

(b) *Effective and Enforcement Period.* This regulation is effective and will be enforced on July 4, 2012 from 8:45 p.m. until 10:15 p.m.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Buffalo or his designated on-scene representative.

(3) The ''on-scene representative'' of the Captain of the Port Buffalo is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Buffalo to act on his behalf.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Buffalo or his on-scene representative to obtain permission to do so. The Captain of the Port Buffalo or his on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Buffalo, or his on-scene representative.

Dated: June 13, 2012.

S.M. Wischmann,

Captain, U.S. Coast Guard, Captain of the Port Buffalo.

[FR Doc. 2012–15822 Filed 6–27–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2012–0353]

RIN 1625–AA00

Safety Zone; Alexandria Bay Chamber of Commerce, St. Lawrence River, Alexandria Bay, NY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard will establish a temporary safety zone on the St. Lawrence River, Alexandria Bay, New York. This safety zone is intended to restrict vessels from a portion of the St. Lawrence River during the Alexandria Bay Chamber of Commerce fireworks on July 4, 2012. The safety zone is necessary to protect participants, spectators, and vessels from the hazards associated with a firework display.

DATES: This regulation will be effective July 4, 2012 from 8:45 p.m. until 10:05 p.m.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket [USCG–2012–0353]. To view documents mentioned in this preamble as being available by going to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' You may visit the Docket Management Facility, Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or email LT Christopher Mercurio, Chief of Waterway Management, U.S. Coast Guard Sector Buffalo; telephone 716–843–9343, email *SectorBuffaloMarineSafety@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR **Federal Register**
NPRM Notice of Proposed Rulemaking

A. Regulatory History and Information

On May 23, 2012, we published a notice of proposed rulemaking (NPRM) entitled Safety Zone; Alexandria Bay Chamber of Commerce, St. Lawrence River, Alexandria Bay, NY in the **Federal Register** (77 FR 30443). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held.

Under 5 U.S.C. 553(d)(3), the Coast Guard is issuing this temporary final rule less than 30 days after publication in the **Federal Register**. Under 5 U.S.C. 553(d)(3), an agency may issue a rule less than 30 days before its effective date when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Accordingly, the Coast Guard finds that good cause exists for publishing this temporary final rule less than 30 days before its effective date because delaying the effective date of this temporary final rule would

prevent its enforcement on the scheduled night of the event and thus, would preclude the Coast Guard from protecting spectators and vessels from the hazards associated with a maritime fireworks display.

B. Basis and Purpose

Between 9:15 p.m. and 9:35 p.m. on July 4, 2012, a fireworks display will be held on the waters of the St. Lawrence River near Alexandria Bay, New York. The Captain of the Port Buffalo has determined that fireworks launched proximate to watercraft pose a significant risk to public safety and property. Such hazards include premature detonations, dangerous detonations, dangerous projectiles, and falling or burning debris.

C. Discussion of Comments, Changes and the Final Rule

As mentioned above, no comments were received from the public in response to the NPRM that preceded this temporary rule. Furthermore, there were no changes made between the proposed rule and this temporary final rule. Thus, there are no comments and no changes to discuss.

Just as was described in the NPRM, the Captain of the Port Buffalo has determined that a temporary safety zone is necessary to ensure the safety of the boating public during the Alexandria Bay Chamber of Commerce Fireworks. The safety zone will be effective and enforced from 8:45 p.m. until 10:05 p.m. on July 4, 2012. The safety zone will encompass all waters of the St. Lawrence River, Alexandria Bay, NY within a 1,120 FT radius of position 44°20′39″ N, 75°55′16″ W (DATUM: NAD 83). Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS). We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zone created by this rule will be relatively small and enforced for relatively short time. Also, the safety zone is designed to minimize its impact on navigable waters. Furthermore, the safety zone has been designed to allow vessels to transit around it. Thus, restrictions on vessel movement within that particular area are expected to be minimal. Under certain conditions, moreover, vessels may still transit through the safety zone when permitted by the Captain of the Port.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The Coast Guard received 0 comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This temporary final rule may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit or anchor in a portion of the St. Lawrence River near Alexandria Bay, NY between 8:45 p.m. to 10:05 p.m. on July 04, 2012.

This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons. This safety zone would be activated, and thus subject to enforcement, for only 80 minutes late in the day when vessel traffic is low. Vessel traffic could pass safely around the safety zone. Before the effective period, maritime advisories will be issued, which include a Broadcast Notice to Mariners.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

7. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

8. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

9. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

10. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

11. Energy Effects

This action is not a ''significant energy action'' under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

12. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

13. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of a safety zone and thus, is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapters 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T09–0353 to read as follows:

§ 165.T09–0353 Safety Zone; Alexandria Bay Chamber of Commerce, St. Lawrence River, Alexandria Bay, NY

(a) *Location.* The safety zone will encompass all waters of the St. Lawrence River, Alexandria Bay, NY within a 1,120 FT radius of position 44°20′39″ N and 75°55′16″ W (NAD 83).

(b) *Effective and enforcement period.* This regulation is effective and will be enforced on July 4, 2012 from 8:45 p.m. until 10:05 p.m.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Buffalo or his designated on-scene representative.

(3) The ''on-scene representative'' of the Captain of the Port Buffalo is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Buffalo to act on his behalf.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Buffalo or his on-scene representative to obtain permission to do so. The Captain of the Port Buffalo or his on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Buffalo, or his on-scene representative.

Dated: June 13, 2012.

S.M. Wischmann,

Captain, U.S. Coast Guard, Captain of the Port Buffalo.

[FR Doc. 2012–15824 Filed 6–27–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2012–0356]

RIN 1625–AA00

Safety Zone; Mentor Harbor Yachting Club Fireworks, Lake Erie, Mentor, OH

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on Lake Erie, Mentor, OH. This safety zone is intended to restrict vessels from a portion of Lake Erie during the Mentor Harbor Yachting Club fireworks display. This temporary safety zone is necessary to protect spectators and vessels from the hazards associated with a fireworks display.

DATES: This rule will be effective from 9:30 p.m. until 11 p.m. on July 3, 2012.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2012–0356]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box, and click ''Search.'' You may visit the Docket Management Facility, Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or email LT Christopher Mercurio, Chief of Waterways Management, U.S. Coast Guard Sector Buffalo; telephone 716–843–9343, email *SectorBuffaloMarineSafety@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR **Federal Register**
NPRM Notice of Proposed Rulemaking

A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable. The final details for this event were not known to the Coast Guard until there was insufficient time remaining before the event to publish an NPRM. Thus, delaying the effective date of this rule to wait for a comment period to run would be both impracticable and contrary to the public interest because it would inhibit the Coast Guard's ability to protect spectators and vessels from the hazards associated with a maritime fireworks display, which are discussed further below.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. For the same reasons discussed in the preceding paragraph, waiting for 30 day notice period run would be impracticable and contrary to the public interest.

B. Basis and Purpose

Between 10 p.m. and 10:30 p.m. on July 3, 2012, a fireworks display will be held on Lake Erie near Mentor, OH. The Captain of the Port Buffalo has determined that fireworks launched proximate to a gathering of watercraft pose a significant risk to public safety and property. Such hazards include premature and accidental detonations, dangerous projectiles, and falling or burning debris.

C. Discussion of Rule

With the aforementioned hazards in mind, the Captain of the Port Buffalo has determined that this temporary safety zone is necessary to ensure the safety of spectators and vessels during the Mentor Harbor Yachting Club Fireworks. This zone will be effective and enforced from 9:30 p.m. until 11 p.m. on July 3, 2012. This zone will encompass all waters of Lake Erie, Mentor, OH within a 500 foot radius of position 41°43′36″ N, and 081°21′09″ W (NAD 83).

Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS). We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zone created by this rule will be relatively small and enforced for relatively short time. Also, the safety zone is designed to minimize its impact on navigable waters. Furthermore, the safety zone has been designed to allow vessels to transit around it. Thus, restrictions on vessel movement within that particular area are expected to be minimal. Under certain conditions, moreover, vessels may still transit through the safety zone when permitted by the Captain of the Port.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in a portion of Lake Erie on the evening of July 3, 2012.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: This safety zone would be activated, and thus subject to enforcement, for only an hour and a half late in the day. Traffic may be allowed to pass through the zone with the permission of the Captain of the Port. The Captain of the Port can be reached via VHF channel 16. Before the activation of the zone, we would issue local Broadcast Notice to Mariners.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a ''significant energy action'' under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of a safety zone and, therefore it is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapters 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T09–0356 to read as follows:

§ 165.T09–0356 Safety Zone; Mentor Harbor Yachting Club, Lake Erie, Mentor, OH.

(a) *Location.* The safety zone will encompass all waters of Lake Erie, Mentor, NY within a 500 foot radius of position 41°43′36″ N, and 081°21′09″ W (NAD 83).

(b) *Effective and Enforcement Period.* This regulation is effective and will be enforced on July 3, 2012 from 9:30 p.m. until 11 p.m.

(c) *Regulations.*

(1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Buffalo or his designated on-scene representative.

(3) The ''on-scene representative'' of the Captain of the Port Buffalo is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Buffalo to act on his behalf.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Buffalo or his on-scene representative to obtain permission to do so. The Captain of the Port Buffalo or his on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Buffalo, or his on-scene representative.

Dated: June 12, 2012.

S.M. Wischmann,

Captain, U.S. Coast Guard, Captain of the Port Buffalo.

[FR Doc. 2012–15826 Filed 6–27–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket Number USCG–2012–0351]

RIN 1625–AA00

Safety Zone; Olcott Fireworks, Lake Ontario, Olcott, NY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard will establish a temporary safety zone on Lake Ontario, Olcott, New York. This safety zone is intended to restrict vessels from a portion of Lake Ontario during the Olcott fireworks on July 3, 2012. The safety zone is necessary to protect participants, spectators, and vessels from the hazards associated with a firework display.

DATES: This regulation will be effective July 3, 2012 from 9:30 p.m. until 11 p.m.

ADDRESSES: Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket [USCG–2012–0351]. To view documents mentioned in this preamble as being available by going to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box and click ''SEARCH.'' You may visit the Docket Management Facility, Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or email LT Christopher Mercurio, Chief of Waterway Management, U.S. Coast Guard Sector Buffalo; telephone 716–843–9343, email *SectorBuffaloMarineSafety@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR **Federal Register**
NPRM Notice of Proposed Rulemaking

A. Regulatory History and Information

On May 23, 2012, we published a notice of proposed rulemaking (NPRM) entitled Safety Zone; Olcott Fireworks, Lake Ontario, Olcott, NY in the **Federal Register** (77 FR 30451). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held.

Under 5 U.S.C. 553(d)(3), the Coast Guard is issuing this temporary final rule less than 30 days after publication in the **Federal Register**. Under 5 U.S.C. 553(d)(3), an agency may issue a rule less than 30 days before its effective date when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Accordingly, the Coast Guard finds that good cause exists for publishing this temporary final rule less than 30 days before its effective date because delaying the effective date of this temporary final rule would prevent its enforcement on the scheduled night of the event and thus, would preclude the Coast Guard from protecting spectators and vessels from the hazards associated with a maritime fireworks display.

B. Basis and Purpose

Between 10 p.m. and 10:30 p.m. on July 3, 2012, a fireworks display will be held on the waters of Lake Ontario near Olcott, NY. The Captain of the Port Buffalo has determined that fireworks launched proximate to watercraft pose a significant risk to public safety and property. Such hazards include premature detonations, dangerous detonations, dangerous projectiles, and falling or burning debris.

C. Discussion of Comments, Changes and the Final Rule

As mentioned above, no comments were received from the public in response to the NPRM that preceded this temporary rule. Furthermore, there were no changes made between the proposed rule and this temporary final rule. Thus, there are no comments and no changes to discuss.

Just as was described in the NPRM, the Captain of the Port Buffalo has determined that a temporary safety zone is necessary to ensure the safety of the boating public during the Olcott Fireworks. The safety zone will be effective and enforced from 9:30 p.m. until 11 p.m. on July 3, 2012. The safety zone will encompass all waters of Lake Ontario, Olcott, NY within a 1,120 FT radius of position 43°20′23.57″ N, 78°43′09.50″ W (DATUM: NAD 83). Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS). We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zone created by this rule will be relatively small and enforced for relatively short time. Also, the safety zone is designed to minimize its impact on navigable waters. Furthermore, the safety zone has been designed to allow vessels to transit around it. Thus, restrictions on vessel movement within that particular area are expected to be minimal. Under certain conditions, moreover, vessels may still transit through the safety zone when permitted by the Captain of the Port.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The Coast Guard received 0 comments from the Small Business Administration on this rule. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This temporary final rule may affect the following entities, some of which may be small entities: The owners or operators of vessels intending to transit or anchor in a portion of Lake Ontario near Olcott, NY between 9:30 p.m. to 11 p.m. on July 3, 2012.

This safety zone would not have a significant economic impact on a substantial number of small entities for the following reasons. This safety zone would be activated, and thus subject to enforcement, for only 90 minutes late in the day when vessel traffic is low. Vessel traffic could pass safely around the safety zone. Before the effective period, maritime advisories will be issued, which include a Broadcast Notice to Mariners.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine

compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

7. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

8. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

9. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

10. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

11. Energy Effects

This action is not a ''significant energy action'' under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

12. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

13. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of a safety zone and thus, is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapters 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T09–0351 to read as follows:

§ 165.T09–0351 Safety Zone; Olcott Fireworks, Lake Ontario, Olcott, NY.

(a) *Location.* The safety zone will encompass all waters of Lake Ontario, Olcott, NY within an 1,120 FT radius of position 43°20′23.57″ N and 78°43′09.50″ W (NAD 83).

(b) *Effective and enforcement period.* This regulation is effective and will be enforced on July 3, 2012 from 9:30 p.m. until 11 p.m.

(c) *Regulations.* (1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Buffalo or his designated on-scene representative.

(3) The ''on-scene representative'' of the Captain of the Port Buffalo is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Buffalo to act on his behalf.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Buffalo or his on-scene representative to obtain permission to do so. The Captain of the Port Buffalo or his on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Buffalo, or his on-scene representative.

Dated: June 13, 2012.

S.M. Wischmann,

Captain, U.S. Coast Guard, Captain of the Port Buffalo/

[FR Doc. 2012–15825 Filed 6–27–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2012–0355]

RIN 1625–AA00

Safety Zone; Village of Sodus Point Fireworks Display, Sodus Bay, Sodus Point, NY

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard is establishing a temporary safety zone on Sodus Bay, Sodus Point, NY. This safety zone is intended to restrict vessels from a portion of Sodus Bay during the Village of Sodus Point Fireworks display. This temporary safety zone is necessary to protect spectators and vessels from the hazards associated with a fireworks display.

DATES: This rule will be effective from 9:30 p.m. until 11:00 p.m. on July 3, 2012.

ADDRESSES: Documents mentioned in this preamble are part of docket [USCG–2012–0355]. To view documents mentioned in this preamble as being available in the docket, go to *http://www.regulations.gov,* type the docket number in the ''SEARCH'' box, and click ''Search.'' You may visit the Docket Management Facility, Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or email LT Christopher Mercurio, Chief of Waterways Management, U.S. Coast Guard Sector Buffalo; telephone 716–843–9343, email *SectorBuffaloMarineSafety@uscg.mil.* If you have questions on viewing or submitting material to the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Table of Acronyms

DHS Department of Homeland Security
FR **Federal Register**
NPRM Notice of Proposed Rulemaking

A. Regulatory History and Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because doing so would be impracticable and contrary to the public interest. The final details for this event were not known to the Coast Guard until there was insufficient time remaining before the event to publish an NPRM. Thus, delaying the effective date of this rule to wait for a comment period to run would be both impracticable and contrary to the public interest because it would inhibit the Coast Guard's ability to protect spectators and vessels from the hazards associated with a maritime fireworks display, which are discussed further below.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. For the same reasons discussed in the preceding paragraph, waiting for 30 day notice period run would be impracticable and contrary to the public interest.

B. Basis and Purpose

Between 10:00 p.m. and 10:30 p.m. on July 3, 2012, a fireworks display will be held on Sodus Bay near Sodus Point, NY. The Captain of the Port Buffalo has determined that fireworks launched proximate to a gathering of watercraft pose a significant risk to public safety and property. Such hazards include premature and accidental detonations, dangerous projectiles, and falling or burning debris.

C. Discussion of Rule

With the aforementioned hazards in mind, the Captain of the Port Buffalo has determined that this temporary safety zone is necessary to ensure the safety of spectators and vessels during the Village of Sodus Point Fireworks. This zone will be effective and enforced from 9:30 p.m. until 11:00 p.m. on July 3, 2012. This zone will encompass all waters of Sodus Bay, Sodus Point, NY within a 1,120 foot radius of position 43°16′27″ N, and 076°58′27″ W (NAD 83).

Entry into, transiting, or anchoring within the safety zone is prohibited unless authorized by the Captain of the Port Buffalo or his designated on-scene representative. The Captain of the Port or his designated on-scene representative may be contacted via VHF Channel 16.

D. Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

1. Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, as supplemented by Executive Order 13563, Improving Regulation and Regulatory Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of Executive Order 12866 or under section 1 of Executive Order 13563. The Office of Management and Budget has not reviewed it under those Orders. It is not ''significant'' under the regulatory policies and procedures of the Department of Homeland Security (DHS). We conclude that this rule is not a significant regulatory action because we anticipate that it will have minimal impact on the economy, will not interfere with other agencies, will not adversely alter the budget of any grant or loan recipients, and will not raise any novel legal or policy issues. The safety zone created by this rule will be relatively small and enforced for a relatively short time. Also, the safety zone is designed to minimize its impact on navigable waters. Furthermore, the safety zone has been designed to allow vessels to transit around it. Thus, restrictions on vessel movement within that particular area are expected to be minimal. Under certain conditions, moreover, vessels may still transit through the safety zone when permitted by the Captain of the Port.

2. Impact on Small Entities

The Regulatory Flexibility Act of 1980 (RFA), 5 U.S.C. 601–612, as amended, requires federal agencies to consider the potential impact of regulations on small entities during rulemaking. The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

This rule will affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in a portion of Sodus Bay on the evening of July 3, 2012.

This safety zone will not have a significant economic impact on a substantial number of small entities for

the following reasons: This safety zone would be activated, and thus subject to enforcement, for only an hour and a half late in the day. Traffic may be allowed to pass through the zone with the permission of the Captain of the Port. The Captain of the Port can be reached via VHF channel 16. Before the activation of the zone, we would issue local Broadcast Notice to Mariners.

3. Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section above.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

4. Collection of Information

This rule will not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

5. Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this rule under that Order and determined that this rule does not have implications for federalism.

6. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

7. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

8. Taking of Private Property

This rule will not cause a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

9. Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

10. Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

11. Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

12. Energy Effects

This action is not a ''significant energy action'' under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use.

13. Technical Standards

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

14. Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have determined that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This rule involves the establishment of a safety zone and, therefore it is categorically excluded from further review under paragraph 34(g) of Figure 2–1 of the Commandant Instruction. An environmental analysis checklist supporting this determination and a Categorical Exclusion Determination are available in the docket where indicated under **ADDRESSES**. We seek any comments or information that may lead to the discovery of a significant environmental impact from this rule.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapters 701, 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add § 165.T09–0355 to read as follows:

§ 165.T09–0355 Safety Zone; Village of Sodus Point Fireworks, Sodus Bay, Sodus Point, NY.

(a) Location. The safety zone will encompass all waters of Sodus Bay, Sodus Point, NY within a 1,120 foot radius of position 43°16′27″ N, and 076°58′27″ W (NAD 83).

(b) Effective and Enforcement Period. This regulation is effective and will be enforced on July 3, 2012 from 9:30 p.m. until 11:00 p.m.

(c) Regulations.

(1) In accordance with the general regulations in § 165.23 of this part, entry into, transiting, or anchoring within this safety zone is prohibited unless authorized by the Captain of the Port

Buffalo or his designated on-scene representative.

(2) This safety zone is closed to all vessel traffic, except as may be permitted by the Captain of the Port Buffalo or his designated on-scene representative.

(3) The ''on-scene representative'' of the Captain of the Port Buffalo is any Coast Guard commissioned, warrant or petty officer who has been designated by the Captain of the Port Buffalo to act on his behalf.

(4) Vessel operators desiring to enter or operate within the safety zone shall contact the Captain of the Port Buffalo or his on-scene representative to obtain permission to do so. The Captain of the Port Buffalo or his on-scene representative may be contacted via VHF Channel 16. Vessel operators given permission to enter or operate in the safety zone must comply with all directions given to them by the Captain of the Port Buffalo, or his on-scene representative.

Dated: June 12, 2012.

S.M. Wischmann,

Captain, U.S. Coast Guard, Captain of the Port Buffalo.

[FR Doc. 2012–15820 Filed 6–27–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2012–0300]

RIN 1625–AA00

Safety Zone; Richmond-Essex County Fourth of July Fireworks, Rappahannock River, Tappahannock, VA

AGENCY: Coast Guard, DHS.

ACTION: Temporary final rule.

SUMMARY: The Coast Guard will establish a temporary safety zone on the Rappahannock River in the vicinity of Tappahannock, VA to support the Richmond-Essex County Fourth of July Fireworks event. This action is necessary to provide for the safety of life on navigable waters during an aerial fireworks display. This action is intended to restrict vessel traffic movement to protect mariners and spectators from the hazards associated with aerial fireworks displays.

DATES: This rule will be effective from 9 p.m. on June 30, 2012, until 10 p.m. on July 1, 2012.

ADDRESSES: Documents indicated in this preamble as being available in the docket are part of docket USCG–2012–0300 and are available online by going to *http://www.regulations.gov,* inserting USCG–2012–0300 in the ''Search'' box, and then clicking ''Search.'' They are also available for inspection or copying at the Docket Management Facility (M–30), U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: If you have questions on this temporary rule, call or email LCDR Hector Cintron, Waterways Management Division Chief, Sector Hampton Roads, Coast Guard; telephone 757–668–5581, email *Hector.L.Cintron@uscg.mil.* If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202–366–9826.

SUPPLEMENTARY INFORMATION:

Regulatory Information

The Coast Guard is issuing this temporary final rule without prior notice and opportunity to comment pursuant to authority under section 4(a) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). This provision authorizes an agency to issue a rule without prior notice and opportunity to comment when the agency for good cause finds that those procedures are ''impracticable, unnecessary, or contrary to the public interest.'' Under 5 U.S.C. 553(b)(B), the Coast Guard finds that good cause exists for not publishing a notice of proposed rulemaking (NPRM) with respect to this rule because the Coast Guard did not receive the application for this event in sufficient time to allow for publication of an NPRM, and any delay encountered in this regulation's effective date by publishing a NPRM would require either the cancellation of the event, or require that the event be held without a safety zone. For that reason it is impracticable to publish an NPRM.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. Delaying the effective date would be impracticable because the Coast Guard did not receive an application for this event in sufficient time to allow for publication more than 30 days prior to the date scheduled for the event, and any additional delay in the effective date would prevent the safety zone from being effective at the time of the event. Therefore, immediate action is needed to ensure the safety of vessels transiting the area.

Background and Purpose

On June 30, 2012, the Richmond County-Essex County Fireworks Committee will host a fireworks event over the navigable waters of the Rappahannock River in Tappahannock, VA centered on position 37°55′12″ N/076°49′12″ W (NAD 1983). Due to the need to protect mariners and spectators from the hazards associated with the fireworks display, such as the accidental discharge of fireworks, dangerous projectiles, and falling hot embers or other debris, the Coast Guard believes that vessel traffic should be temporarily restricted within 400 feet of the fireworks launch site.

Discussion of Rule

The Captain of the Port is establishing a safety zone on the navigable waters of the Rappahannock River within the area bounded by a 400-foot radius circle centered on position 37°55′12″ N/076°49′12″ W (NAD 1983). This safety zone will be enforced in the vicinity of Tappahannock, VA from 9 p.m. until 10 p.m. on June 30, 2012, with a rain date of July 1, 2012 from 9 p.m. until 10 p.m. In the interest of public safety, general navigation within the safety zone will be restricted during the specified date and times. Except for participants and vessels authorized by the Coast Guard Captain of the Port or his representative, no person or vessel may enter or remain in the regulated area.

Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 14 of these statutes or executive orders.

Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. Although this regulation restricts access to the safety zone, the effect of this rule will not be significant because: (i) The safety zone will be in effect for a limited duration; (ii) the zone is of limited size; (iii) mariners may transit the waters in and around this safety zone at the discretion of the Captain of the Port or designated representative; and (iv), the Coast Guard will make

notifications via maritime advisories so mariners can adjust their plans accordingly.

Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term ''small entities'' comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities.

The rule would affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor on the Rappahannock River in the vicinity of Tappahannock, VA from 9 p.m. until 10 p.m. on June 30, 2012.

This safety zone will not have a significant economic impact on a substantial number of small entities for the following reasons: (i) The temporary safety zone will only be in place for a limited duration and limited size. (ii) Before the enforcement period of June 30, 2012, maritime advisories will be issued allowing mariners to adjust their plans accordingly.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offer to assist small entities in understanding the rule so that they can better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to contact the person listed in the **FOR FURTHER INTFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places or vessels.

Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of $100,000,000 (adjusted for inflation) or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

Taking of Private Property

This rule will not affect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference with Constitutionally Protected Property Rights.

Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a ''significant energy action'' under that order because it is not a ''significant regulatory action'' under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a significant energy action. Therefore, it does not require a Statement of Energy Effects under Executive Order 13211.

Technical Standards

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

Environment

We have analyzed this rule under Department of Homeland Security Management Directive 023–01 and Commandant Instruction M16475.lD, which guide the Coast Guard in complying with the National

Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(g), of the Instruction. This rule involves establishing a temporary safety zone. An environmental analysis checklist and a categorical exclusion determination will be available in the docket where indicated under **ADDRESSES**.

List of Subjects in 33 CFR Part 165

Harbors, Marine safety, Navigation (water), Reporting and recordkeeping requirements, Security measures, and Waterways.

For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 165 subpart C as follows:

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

■ 1. The authority citation for part 165 continues to read as follows:

Authority: 33 U.S.C. 1231; 46 U.S.C. Chapter 701; 3306, 3703; 50 U.S.C. 191, 195; 33 CFR 1.05–1, 6.04–1, 6.04–6, 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Add temporary § 165.T05–0300, to read as follows:

§ 165.T05–0300 Safety Zone; Richmond-Essex County Fourth of July Fireworks, Rappahannock River, Tappahannock, VA.

(a) *Regulated Area.* The following area is a safety zone: Specified waters of the Captain of the Port Sector Hampton Roads zone, as defined in 33 CFR 3.25–10, within 400 feet of position: 37°-55′-12″ N/076°-49′-12″ W (NAD 1983) in the vicinity of Tappahannock, VA.

(b) *Definition.* For purposes of enforcement of this section, Captain of the Port Representative means any U.S. Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port, Hampton Roads, Virginia to act on his behalf.

(c) *Regulation.*

(1) In accordance with the general regulations in § 165.23 of this part, entry into this zone is prohibited unless authorized by the Captain of the Port, Hampton Roads or his designated representatives.

(2) The operator of any vessel in the immediate vicinity of this safety zone shall:

(i) Stop the vessel immediately upon being directed to do so by any commissioned, warrant or petty officer on board a vessel displaying a U.S. Coast Guard Ensign; and

(ii) Proceed as directed by any commissioned, warrant or petty officer on board a vessel displaying a U.S. Coast Guard Ensign.

(3) Any person or vessel seeking to transit through the safety zone may request prior permission of the Captain of the Port, Hampton Roads, Virginia who can be contacted at telephone number (757) 638–6637.

(4) U.S. Coast Guard vessels enforcing the safety zone can be contacted on VHF–FM marine band radio, channel 13 (156.65 MHz) and channel 16 (156.8 MHz).

(d) *Enforcement period.* This regulation will be enforced from 9 p.m. until 10 p.m. on June 30, 2012, with a rain date of July 1, 2012 from 9 p.m. until 10 p.m.

Dated: May 15, 2012.

Mark S. Ogle,

Captain, U.S. Coast Guard, Captain of the Port Hampton Roads.

[FR Doc. 2012–15817 Filed 6–27–12; 8:45 am]

BILLING CODE 9110–04–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[Docket No. USCG–2008–0384]

Special Local Regulations and Safety Zones; Recurring Events in Captain of the Port Long Island Sound

AGENCY: Coast Guard, DHS.

ACTION: Notice of enforcement of regulation.

SUMMARY: The Coast Guard will enforce various fireworks displays' and swimming events' safety zones in the Sector Long Island Sound area of responsibility on various dates and times listed in the tables below. This action is necessary to provide for the safety of life on navigable waterways during these regattas, fireworks displays and swim events. During the enforcement period, no person or vessel may enter the safety zone without permission of the Captain of the Port (COTP) Sector Long Island Sound or designated representative.

DATES: The regulations in 33 CFR 165.151 will be enforced on the dates and times listed in tables 1 and 2 in **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: If you have questions on this notice, call or email Petty Officer Joseph Graun Prevention Department U.S. Coast Guard Sector Long Island Sound (203) 468–4544, *joseph.L.Graun@uscg.mil.*

SUPPLEMENTARY INFORMATION:

TABLE 1 TO § 165.151

6	June
6.3 Vietnam Veterans/Town of East Haven Fireworks	• Date: June 30, 2012. • Rain date: July 1, 2012. • Time: 8:30 p.m. to 10:30 p.m. • Location: Waters off Cosey beach, East Haven, CT in approximate position 41°14′19″ N, 072°52′9.8″ W (NAD 83).
7	July
7.3 City of Westbrook, CT July Celebration Fireworks	• Date: July 2, 2012. • Rain date: July 3, 2012. • Time: 8:30 p.m. to 10:30 p.m. • Location: Waters of Westbrook Harbor, Westbrook, CT in approximate position 41°16′10.50″ N, 072°26′14″ W (NAD 83).
7.9 City of Middletown Fireworks	• Date: July 3, 2012. • Rain date: July 5, 2012. • Time: 8:30 p.m. to 10:30 p.m.

TABLE 1 TO § 165.151—Continued

	• Location: Waters of the Connecticut River, Middletown Harbor, Middletown, CT in approximate position 41°33′44.47″ N, 072°38′37.88″ W (NAD 83).
7.11 City of Norwich July Fireworks	• Date: July 30, 2012. • Rain date: July 1, 2012. • Time: 8:30 p.m. to 10:30 p.m. • Location: Waters of the Thames River, Norwich, CT in approximate position 41°31′16.835″ N, 072°04′43.327″ W (NAD 83).
7.13 City of West Haven Fireworks	• Date: July 3, 2012. • Rain date: July 5, 2012. • Time: 8:30 p.m. to 10:30 p.m. • Location: Waters of New Haven Harbor, off Bradley Point, West Haven, CT in approximate position 41°15′07″ N, 072°57′26″ W (NAD 83).
7.17 Fund in the Sun Fireworks	• Date: August 18, 2012. • Rain date: August 19, 2012. • Time: 8:30 p.m. to 10:30 p.m. • Location: Waters of the Great South Bay off The Pines, East Fire Island, NY in approximate position 40°40′07.43″ N, 073°04′13.88″ W (NAD 83).
7.28 City of Long Beach Fireworks	• Date: July 3, 2012. • Rain date: July 13, 2012. • Time: 8:30 p.m. to 10:30 p.m. • Location: Waters off Riverside Blvd, City of Long Beach, NY in approximate position 40°34′38.77″ N, 073°39′41.32″ W (NAD 83).
7.33 Clam Shell Foundation Fireworks	• Date: July 21, 2012. • Rain date: July 22, 2012. • Time: 8:30 p.m. to 10:30 p.m. • Location: Waters of Three Mile Harbor, East Hampton, NY in approximate position 41°1′15.49″ N, 072°11′27.50″ W (NAD 83).
7.35 Groton Long Point Yacht Club Fireworks	• Date: July 14, 2012. • Rain date: July 15, 2012. • Time: 8:30 p.m. to 10:30 p.m. • Location: Waters of Long Island Sound, Groton, CT in approximate position 41°18′05″ N, 072°02′08″ W (NAD 83).
8	August
8.2 Port Washington Sons of Italy Fireworks	• Date: September 9, 2012. • Time: 8:30 p.m. to 10:30 p.m. • Location: Waters of Hempstead Harbor off Bar Beach, North Hempstead, NY in approximate position 40°49′48.04″ N, 073°39′24.32″ W (NAD 83).
8.6 Town of Babylon Fireworks	• Date: August 25, 2012. • Rain date: August 26, 2012. • Time: 8:30 p.m. to 10:30 p.m. • Location: Waters off of Cedar Beach Town Park, Babylon, NY in approximate position 40°37′53″ N, 073°20′12″ W (NAD 83).

TABLE 2 TO § 165.151

1.2 Huntington Bay Open Water Championships Swim	• Date: July 15, 2012. • Time: 7:15 a.m. to noon. • Location: Waters of Huntington Bay, NY. In approximate positions start/finish at approximate position 40°54′25.8″ N, 073°24′28.8″ W, East turn at approximate position 40°54′45″ N, 073°23′36.6″ W, and a West turn at approximate position 40°54′31.2″ N, 073°25′21″ W °09′25.07″ N, 073°12′47.82″ W (NAD 83).

The Coast Guard will enforce the safety zones listed in 33 CFR 165.151 on the specified dates and times as indicated in tables above. If the event is delayed by inclement weather, the regulation will be enforced on the rain date indicated in tables above. These regulations were published in the **Federal Register** on February 10, 2012 (77 FR 6954).

Under the provisions of 33 CFR 165.151, The fireworks displays and swimming events listed above in **DATES** are established as safety zones. During these enforcement periods, persons and vessels are prohibited from entering into, transiting through, mooring, or anchoring within the safety zones unless they receive permission from the COTP or designated representative.

This rule is issued under authority of 33 CFR 165 and 5 U.S.C. 552(a). In addition to this rule in the **Federal Register**, the Coast Guard will provide the maritime community with advance notification of this enforcement period via the Local Notice to Mariners or marine information broadcasts. If the COTP determines that a regulated area need not be enforced for the full duration stated in this notice, a Broadcast Notice to Mariners may be used to grant general permission to enter the regulated area.

Dated: June 14, 2012.

J.M. Vojvodich,

Captain, U.S. Coast Guard, Captain of the Port Sector Long Island Sound.

[FR Doc. 2012–15823 Filed 6–27–12; 8:45 am]

BILLING CODE 9110–04–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2010–0936; FRL–9692–1]

Approval and Promulgation of Implementation Plans; State of Georgia; Regional Haze State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing a limited approval of a revision to the Georgia State Implementation Plan (SIP) submitted by the State of Georgia through the Georgia Department of Environmental Protection Division (GA EPD) on February 11, 2010, as supplemented November 19, 2010 (hereafter also referred to as ''Georgia's regional haze SIP''). Georgia's SIP revisions address regional haze for the first implementation period. Specifically, these SIP revisions address the requirements of the Clean Air Act (CAA or Act) and EPA's rules that require states to prevent any future and remedy any existing anthropogenic impairment of visibility in mandatory Class I areas (national parks and wilderness areas) caused by emissions of air pollutants from numerous sources located over a wide geographic area (also referred to as the ''regional haze program''). States are required to assure reasonable progress toward the national goal of achieving natural visibility conditions in Class I areas. EPA is finalizing a limited approval of Georgia's SIP revisions to implement the regional haze requirements on the basis that these SIP revisions, as a whole, strengthen the Georgia SIP. In a separate action published on June 7, 2012, EPA proposed a limited disapproval of these same SIP revisions because of the deficiencies in the State's regional haze SIP arising from the remand by the U.S. Court of Appeals for the District of Columbia Circuit (D.C. Circuit) to EPA of the Clean Air Interstate Rule (CAIR).

DATES: *Effective Date:* This rule will be effective July 30, 2012.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2010–0936. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section for further information. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Michele Notarianni, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Michele Notarianni can be reached at telephone number (404) 562–9031 and by electronic mail at *notarianni.michele@epa.gov.*

SUPPLEMENTARY INFORMATION:

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II. What is EPA's response to comments received on this action?
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I. What is the background for this final action?

Regional haze is visibility impairment that is produced by a multitude of sources and activities which are located across a broad geographic area and emit fine particles (e.g., sulfates, nitrates, organic carbon, elemental carbon, and soil dust), and their precursors (e.g., sulfur dioxide (SO_2), nitrogen oxides (NO_X), and in some cases, ammonia and volatile organic compounds. Fine particle precursors react in the atmosphere to form fine particulate matter ($PM_{2.5}$) which impairs visibility by scattering and absorbing light. Visibility impairment reduces the clarity, color, and visible distance that one can see. $PM_{2.5}$ can also cause serious health effects and mortality in humans and contributes to environmental effects such as acid deposition and eutrophication.

In section 169A of the 1977 Amendments to the CAA, Congress created a program for protecting visibility in the nation's national parks and wilderness areas. This section of the CAA establishes as a national goal the ''prevention of any future, and the remedying of any existing, impairment of visibility in mandatory Class I areas which impairment results from manmade air pollution.'' On December 2, 1980, EPA promulgated regulations to address visibility impairment in Class I areas that is ''reasonably attributable'' to a single source or small group of sources, i.e., ''reasonably attributable visibility impairment.'' *See* 45 FR 80084. These regulations represented the first phase in addressing visibility impairment. EPA deferred action on regional haze that emanates from a variety of sources until monitoring, modeling, and scientific knowledge about the relationships between pollutants and visibility impairment were improved.

Congress added section 169B to the CAA in 1990 to address regional haze issues. EPA promulgated a rule to address regional haze on July 1, 1999

(64 FR 35714), the Regional Haze Rule (RHR). The RHR revised the existing visibility regulations to integrate into the regulation provisions addressing regional haze impairment and established a comprehensive visibility protection program for Class I areas. The requirements for regional haze, found at 40 CFR 51.308 and 51.309, are included in EPA's visibility protection regulations at 40 CFR 51.300–309. The requirement to submit a regional haze SIP applies to all 50 states, the District of Columbia, and the Virgin Islands. 40 CFR 51.308(b) requires states to submit the first implementation plan addressing regional haze visibility impairment no later than December 17, 2007.

On February 11, 2010, as supplemented November 19, 2010, GA EPD submitted revisions to Georgia's SIP to address regional haze in the State's and other states' Class I areas. On February 27, 2012, EPA published an action proposing a limited approval of Georgia's regional haze SIP revision to address the first implementation period for regional haze.[1] *See* 77 FR 11452. EPA proposed a limited approval of Georgia's SIP revisions to implement the regional haze requirements for Georgia on the basis that these revisions, as a whole, strengthen the Georgia SIP. See section II of this rulemaking for a summary of the comments received on the proposed actions and EPA's responses to these comments. Detailed background information and EPA's rationale for the proposed action is provided in EPA's February 27, 2012, proposed rulemaking. *See* 77 FR 11452.

Following the remand of CAIR, EPA issued a new rule in 2011 to address the interstate transport of NO_X and SO_2 in the eastern United States. *See* 76 FR 48208 (August 8, 2011) (''the Transport Rule,'' also known as the Cross-State Air Pollution Rule (CSAPR)). On December 30, 2011, EPA proposed to find that the trading programs in the Transport Rule would achieve greater reasonable progress towards the national goal of achieving natural visibility conditions than would Best Available Retrofit Technology (BART) in the states in which the Transport Rule applies (including Georgia). *See* 76 FR 82219. Based on this proposed finding, EPA also proposed to revise the RHR to allow states to substitute participation in the trading programs under the Transport Rule for source-specific BART. EPA finalized this finding and RHR revision on June 7, 2012 (77 FR 33642).

Also on December 30, 2011, the DC Circuit stayed the Transport Rule (including the provisions that would have sunset CAIR and the CAIR FIPs) and instructed the EPA to continue to administer CAIR pending the outcome of the court's decision on the petitions for review challenging the Transport Rule. *EME Homer City* v. *EPA,* No. 11–1302.

II. What is EPA's response to comments received on this action?

EPA received 928 sets of comments on the February 27, 2012, rulemaking proposing a limited approval of Georgia's regional haze SIP revision. Specifically, the comments were received from the National Parks Conservation Association (NPCA) (on behalf of NPCA, Friends of the Chattahoochee, and GreenLaw) and from various individuals through NPCA (927 emails identical in substantive content). Full sets of the comments provided by all of the aforementioned entities (hereinafter referred to as ''the Commenter'') are provided in the docket for today's final action. A summary of the comments and EPA's responses are provided below.

Comment 1: The Commenter does not believe that EPA's proposal to replace Georgia's reliance on CAIR with a reliance on CSAPR to satisfy BART for SO_2 and NO_X is credible. The Commenter incorporates by reference comments that it submitted to EPA on February 28, 2012, regarding the Agency's December 30, 2011, proposed rulemaking to find that the Transport Rule is ''Better than BART'' and to use the Transport Rule as an alternative to BART for Georgia through a FIP. *See* 76 FR 82219. The Commenter enclosed one of the comment letters that it submitted to EPA on February 28, 2012, and a comment letter that it submitted to EPA on March 22, 2012, on the Agency's proposed February 21, 2012, direct final rule adjusting several 2012 and 2014 budgets in the Transport Rule (*see* 77 FR 10342). The Commenter restates several of its comments on those rulemaking actions, including the following: EPA's proposed December 30, 2011, ''Better than BART'' rule is inconsistent with the CAA and does not provide reasonable progress as required by the RHR; EPA cannot rely on the Transport Rule because the DC Circuit has indefinitely stayed the rule; EPA has not complied with the CAA's statutory requirements for a BART exemption; EPA has failed to make a state-by-state demonstration that CSAPR is better than BART; EPA included fatal methodological flaws in its proposed ''Better than BART'' determination;[2] EPA failed to account for the geographical and temporal uncertainties in emissions reductions inherent in a cap-and-trade program such as the Transport Rule; EPA's ''Better than BART'' analysis overstates the air quality benefits provided by the Transport Rule; EPA failed to consider that while allowances are issued for a given year, sources are under no obligation to ration the allowances out over the year; neither Georgia nor EPA has demonstrated that Transport Rule is ''better than BART'' as applied to Georgia; EPA failed to evaluate whether exempting Georgia electric generating units (EGUs) from BART complies with the CAA's reasonable progress mandate; and the changes to Georgia's CSAPR emission budget increase the likelihood that CSAPR will not achieve greater reasonable progress than BART at many Class I areas. The Commenter contends that these ''shortcomings * * * impede the Agency's ability to finalize the proposed partial FIP or the proposed limited SIP approval for Georgia. Instead EPA must rectify these shortcomings and issue a proper federal plan in its place.''

Response 1: The comments regarding the alleged ''shortcomings'' in EPA's proposed ''Better than BART'' rule are beyond the scope of this rulemaking. In today's action, EPA is finalizing a limited approval of Georgia's regional haze SIP. EPA did not propose to find that participation in the Transport Rule is an alternative to BART in this action nor did EPA reopen discussions on the CAIR provisions as they relate to BART.[3] As noted above, EPA proposed to find that the Transport Rule is ''Better than BART'' and to use the Transport Rule as an alternative to BART for Georgia in a separate action on December 30, 2011, and the Commenter is merely reiterating and incorporating its comments on that separate action. EPA addressed the Commenter's February 28, 2012, comments concerning the Transport Rule as a BART alternative in a final action that was published on June 7, 2012, and has determined that they do not affect the

[1] In a separate action published on June 7, 2012 (77 FR 33642), EPA finalized a limited disapproval of the Georgia regional haze SIP because of deficiencies in the State's regional haze SIP submittal arising from the State's reliance on CAIR to meet certain regional haze requirements. Also, in that June 7, 2012, action, EPA finalized a Federal Implementation Plan (FIP) for Georgia to address the deficiencies that resulted from the State's reliance on CAIR for their regional haze SIP.

[2] See footnote 6 in the Commenter's March 28, 2012, letter for a full description.

[3] In the final BART Guidelines rulemaking on July 6, 2005, EPA addressed similar comments related to CAIR and made the determination that CAIR makes greater reasonable progress than BART for certain EGUs and pollutants (70 FR 39138–39143). EPA did not reopen comment on this issue through this rulemaking.

Agency's ability to issue a limited approval of Georgia's regional haze SIP. EPA's responses to these comments can be found in Docket ID No. EPA–HQ–OAR–2011–0729 at *www.regulations.gov.*

Comment 2: The Commenter asserts that EPA does not have the authority under the CAA to issue a limited approval of Georgia's regional haze SIP. The Commenter contends that section 110(k) of the Act only allows EPA to fully approve, partially approve and partially disapprove, conditionally approve, or fully disapprove a SIP.

Response 2: As discussed in the September 7, 1992, EPA memorandum cited in the proposed rulemaking,[4] although section 110(k) of the CAA may not expressly provide authority for limited approvals, the plain language of section 301(a) does provide ''gap-filling'' authority authorizing the Agency to ''prescribe such regulations as are necessary to carry out'' EPA's CAA functions. EPA may rely on section 301(a) in conjunction with the Agency's SIP approval authority in section 110(k)(3) to issue limited approvals where it has determined that a submittal strengthens a given state SIP and that the provisions meeting the applicable requirements of the Act are not separable from the provisions that do not meet the Act's requirements. EPA has adopted the limited approval approach numerous times in SIP actions across the nation over the last twenty years. A limited approval action is appropriate here because EPA has determined that Georgia's SIP revision addressing regional haze, as a whole, strengthen the State's SIP and because the provisions in the Georgia regional haze SIP are not separable.

The Commenter asserts that EPA's action ''directly contradicts the plain language of the Clean Air Act'' and cites several federal appellate court decisions to support its contention that section 110(k) of the Act limits EPA to a full approval, ''a conditional approval, a partial approval and disapproval, or a full disapproval.'' However, adopting the Commenter's position would ignore section 301 and violate the '' 'fundamental canon of statutory construction that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme' * * *. A court must therefore interpret the statute 'as a symmetrical and coherent regulatory scheme,' * * * and 'fit, if possible, all parts into an harmonious whole.' '' *FDA* v. *Brown & Williamson Tobacco Corp.,* 529 U.S. 120, 133 (2000) (quoting *Davis* v. *Michigan Dept. of Treasury,* 489 U.S. 803, 809 (1989), *Gustafson* v. *Alloyd Co.,* 513 U.S. 561, 569 (1995), and *FTC* v. *Mandel Brothers, Inc.,* 359 U.S. 385, 389 (1959)). Furthermore, the cases cited by the Commenter did not involve challenges to a limited approval approach, and one of the cases, *Abramowitz* v. *EPA,* 832 F.2d 1071 (9th Cir. 1988) predates the 1990 CAA amendments enacting section 110(k).

Comment 3: The Commenter asserts that the proposed limited approval violates the CAA and RHR because EPA failed to evaluate or determine whether exempting Georgia's EGUs from BART complies with the Act's reasonable progress mandate. The Commenter supports its position by repeating statements made in its February 28, 2012, comments on the Agency's proposed December 30, 2011, rulemaking to find that the Transport Rule is ''Better than BART'' and to use the Transport Rule as an alternative to BART for Georgia and other states subject to the Transport Rule. For example, the Commenter states that because [a]ll required components of a Regional Haze SIP or FIP affect each other, are part of a 'single administrative action' and must be evaluated together,'' EPA's ''failure to consider together the proposed alternative BART program, the long-term strategy and reasonable progress goals in Georgia's SIP violates the Clean Air Act and RHR and is arbitrary and capricious.''

Response 3: As discussed in the response to Comment 1, today's action does not address reliance on CAIR or CSAPR to satisfy BART requirements. Comments related to the approvability of CAIR or CSAPR for the Georgia regional haze SIP are therefore beyond the scope of this rulemaking and were addressed by EPA in a separate action published on June 7, 2012 (77 FR 33642). EPA addressed the Commenter's repeated statements regarding the interrelatedness of BART, the long-term strategy (LTS), and reasonable progress goals (RPGs) in that final rulemaking action and those responses support this limited approval action.[5]

EPA believes that the Commenter overstates the overarching nature of the changes due to CAIR or CSAPR. The basis for the assertion that GA EPD exempted EGUs from NO_X BART and that it in some way affected the reasonable progress determinations for other sources is not clear. The reliance on CAIR in the Georgia submittal was consistent with EPA policy at the time the submittal was prepared. CSAPR is a replacement for CAIR, addressing the same regional EGU emissions, with many similar regulatory attributes. The need to address changes to the LTS resulting from the replacement of CAIR with CSAPR was acknowledged in the proposal, and as stated in the proposal, EPA believes the five-year progress report is the appropriate time to address any changes to the RPG demonstration and, if necessary, the LTS. EPA expects that this demonstration will address the impacts on the RPG due to the replacement of CAIR with CSAPR as well as other adjustments to the projected 2018 emissions due to updated information on the emissions for other sources and source categories. If this assessment determines an adjustment to the regional haze plan is necessary, EPA regulations require a SIP revision within a year of the five-year progress report.

Comment 4: The Commenter contends that the BART determination for Interstate Paper is inadequate. Specifically, for the power boiler, the Commenter does not believe that the permit language limits the emissions from the power boiler since the permit allows for the use of fuel oil during times of natural gas curtailment and for the burning of non-condensable gases (NCG) when two other units are down, but does not adequately define or place limits on the duration of such events or the emissions that result. The Commenter states that the BART determination was also used inappropriately to allow the facility to avoid Prevention of Significant Deterioration (PSD) review for modifications to the Recovery Furnace and Paper Machine intended to increase production. The Commenter is concerned that at all three of these units, EPA proposes to approve no additional emissions controls for some pollutants but does not specify an appropriately stringent limit for the existing emissions. Finally, the Commenter believes there are a number

[4] *Processing of State Implementation Plan (SIP) Revisions,* EPA Memorandum from John Calcagni, Director, Air Quality Management Division, OAQPS, to Air Division Directors, EPA Regional Offices I–X, September 7, 1992, (''1992 Calcagni Memorandum'') located at *http://www.epa.gov/ttn/caaa/t1/memoranda/siproc.pdf.*

[5] *See* EPA, Response to Comments Document, Regional Haze: Revisions to Provisions Governing Alternatives to Source-Specific Best Available Retrofit Technology (BART) Determinations, Limited SIP Disapprovals, and Federal Implementation Plans (76 FR 82219; December 30, 2011), Docket Number EPA–HQ–OAR–2011–0729 (May 30, 2012), pages 49–51 (noting that EPA ''disagree[s] with comments that we cannot evaluate the BART requirements in isolation from the reasonable progress requirements. We have on several occasions undertaken evaluations of a state's BART determination or promulgated a FIP separately from our evaluation of whether the SIP as a whole will ensure reasonable progress.'').

of errors in the BART determination for this source including: assuming a low removal efficiency for selective catalytic reduction (SCR) (80 percent instead of 90 percent); lack of technical, quantified justification for dismissing SCR as technically infeasible for the Recovery Boiler; and prematurely removing controls from examination based on economic factors alone.

Response 4: The Commenter overstates the scope and impact of the exemptions from the use of natural gas to address natural gas curtailments or for the burning of NCGs. EPA regards these exemptions as acceptable in this circumstance as permitted. Natural gas curtailment is commonly understood to be a forced reduction in service below contracted-for levels in response to inadequate pipeline capacity or inadequate natural gas supplies, both of which are beyond the control of the user (*see,* e.g., 40 CFR 60.7575; Georgia Air Quality Control Rules 391–3–1-.02(rrr)(5)). Examples of situations that may trigger curtailment are hurricane damage to supplies or extreme cold weather requiring allocation of natural supplies to priority needs such as homes and hospitals. With regard to the NCG exemption, the power boiler, along with the lime kiln, is used as a backup control device to burn NCGs from other operations at the mill. The power boiler can only burn NCGs when the lime kiln (primary NCG control device) and the multi-fuel boiler (secondary NCG control device) are out-of-service. Both the latter two sources have existing SO_2 control devices on their exhaust streams. The current title V permit limits the SO_2 from NCG combustion to less than 40 tons per year. Although actual emissions are expected to be much less, this limit was used in the modeling of the impacts of this source for BART.

Regarding any relationship between the BART determination and PSD requirements, decisions on PSD applicability are subject to separate provisions of the CAA and are therefore beyond the scope of this rulemaking. With regard the existing emissions limits, all other emissions limits used in assessing the impact of the facility are contained in the title V permit and are appropriately stringent. Finally, with regard to the ''flaws'' cited in the BART determination, EPA finds that the analysis was conducted in accordance with the *Guidelines for BART Determinations Under the Regional Haze Rule* at Appendix Y to 40 CFR part 51 (hereinafter referred to as the ''BART Guidelines'') and that the State appropriately considered the statutory factors. Additional NO_X controls were not considered (e.g., SCR) as BART due to the relatively small benefit to visibility from these controls.

Comment 5: The Commenter believes that the PM BART determination for Georgia Power—Plant Bowen is inadequate, that Georgia did not demonstrate the appropriateness of only evaluating PM BART for EGUs, and that the State did not evaluate the impact of PM for a number of EGUs that are more appropriately considered subject to BART than Plant Bowen. The Commenter expressed the following concerns with the proposed BART determination: It concludes that no additional controls are needed, and therefore does not require an emissions limit; it must reflect filterable and condensable PM; not all feasible control options were evaluated (e.g., fabric filters); the cost estimates and cost effectiveness values were overestimated; and control options that involve improvements to existing controls were not completely addressed.

Response 5: Plant Bowen is subject to emissions limits, and the PM emissions limits from its electrostatic precipitator (ESP) are identified in the facility's title V permit. Furthermore, all PM was considered in the BART determination; each evaluated control option in Georgia's regional haze SIP considered the contribution of total PM_{10} and $PM_{2.5}$ (as a subset of the total PM_{10}) as well as condensable PM (primarily sulfuric acid mist) (see Appendix H.8 of Georgia's February 2010 regional haze SIP submittal). The installed controls on both facilities are effective at reducing filterable and condensable particulates. Regarding modeling in Georgia's regional haze SIP that uses PM only for its BART-eligible EGUs, EPA previously determined that this approach is appropriate for EGUs where the State proposed to rely on CAIR to satisfy the BART requirements for SO_2 and NO_X.[6]

Regarding the need to assess all feasible control options, including improvements to existing controls, as is stated in EPA's BART Guidelines, available retrofit control options are those air pollution control technologies with a practical potential for application to the emissions unit and the regulated pollutant under evaluation. In identifying ''all'' options, a state must identify the most stringent option and a reasonable set of options for analysis that reflects a comprehensive list of available technologies. It is not necessary to list all permutations of available control levels that exist for a given technology; the list is complete if it includes the maximum level of control that each technology is capable of achieving.[7] In this instance, each of the EGU's PM emissions is already controlled by ESPs and wet flue gas desulphurization (FGD), (SO_2 scrubbers) which were installed on Plant Bowen between 2008 and 2010. Georgia Power identified the following four potential additional control technologies: (a) High voltage power conditioners (juice cans); (b) particle agglomerators; (c) the combination of juice cans and particle agglomerators; and (d) a wet ESP. Wet ESPs are the only control option that resulted in a modeled visibility improvement greater than 0.01 deciview. Wet ESPs were predicted to improve visibility by approximately 0.14 to 0.16 deciview for each unit at a cost effectiveness of $37,107 to $47,909 per ton. In addition, the wet ESP would consume additional electricity and have non-air environmental impacts. The combination high voltage power conditioner (juice can);/particle agglomerator option modeled a visibility benefit of 0.01 deciview for each unit at a cost effectiveness of $12,222 to $21,914 per ton SO_2.

While the adjustments to the cost analyses suggested by the Commenter would lower the cost effectiveness of the options evaluated, the suggested changes would not be large enough to change the BART determination. The State evaluated the cost effectiveness, visibility impacts, and energy and non-air environmental impacts of these control options. GA EPD determined that no additional control was reasonable for BART for this facility and EPA agrees with this determination. EPA finds the BART determination for Plant Bowen was conducted in a manner consistent with EPA guidance.

Comment 6: The Commenter states that due to its reliance on CAIR (and now CSAPR), Georgia failed to evaluate numerous sources that contribute significantly to visibility impairment at the Cohutta Wilderness Area (Cohutta). The Commenter also states that none of the CAIR or CSAPR sources have a completed BART determination for NO_X or SO_2 since CSAPR allocations are not determined on an assessment of many of the same factors that must be addressed in establishing the RPG. Because of this, the Commenter states that neither Georgia nor EPA has determined whether additional progress at Cohutta would be reasonable based on the

[6] *Regional Haze Regulations and Guidelines for Best Available Retrofit Technology (BART) Determinations,* EPA Memorandum from Joseph Paisie, Group Leader, Geographic Strategies Group, OAQPS, to Kay Prince, Branch Chief, EPA Region 4, July 19, 2006, located at: *http://www.epa.gov/visibility/pdfs/memo_2006_07_19.pdf.*

[7] EPA's BART Guidelines. *See* 70 FR 39164.

statutory factors, and this responsibility cannot be excused simply because Cohutta may meet the URP. The Commenter also believes that Georgia and EPA excused the No. 4 boiler at the Temple-Inland Rome Linerboard Mill from additional control based on the predicted ability to meet the URP at Cohutta, despite identifying otherwise cost-effective control options, and that this decision does not fulfill the State's obligation to go beyond the URP in evaluating reasonable progress and in establishing RPGs.

Response 6: The State's reliance on CAIR was consistent with EPA guidance and has been addressed through the limited disapproval June 7, 2012, final action. The Commenter's concerns regarding CSAPR were also addressed in that June 7, 2012, rulemaking. Any differences in the RPGs that result from the reliance on CAIR will be addressed in the five-year review.

Regarding the Temple-Inland Rome Linerboard Mill, as was stated in the proposal (77 FR 11468) and in EPA's Reasonable Progress Guidance,[8] the states have wide latitude to determine appropriate additional control requirements for ensuring reasonable progress, and there are many ways for a state to approach identification of additional reasonable measures. States must consider the four statutory factors, at a minimum, in determining reasonable progress, but states have flexibility in how to take these factors into consideration. GA EPD's reasonable progress control analysis reviewed: (a) Two wet FGD configurations (magnesium enhanced lime) and limestone forced oxidation; (b) dry FGD (lime absorbent); (c) fuel switching; and (d) dry sorbent injection. The State determined that none of the control options considered for Power Boiler 4 is reasonable at this time. A key factor in determining what was considered ''reasonable'' for reasonable progress requirements for this source is that the improvement in visibility from the emissions controls evaluated ranged from 0.11 to 0.17 inverse megameters at the affected Class I areas impacted by this unit. The State determined, and EPA agrees, that none of the control options considered for Power Boiler 1 is reasonable given the predicted visibility improvement.

Regarding the need to go beyond the URP analysis when establishing RPGs, EPA affirmed in the RHR that the URP is not a ''presumptive target;'' rather, it is an analytical requirement for setting RPGs. *See* 64 FR 35731, 35732, July 1, 1999. In determining RPGs for Georgia's Class I areas, the State identified sources through its area of influence methodology for reasonable progress control evaluation and described those evaluations in its SIP. Thus, the State went beyond the URP analysis to identify and evaluate sources for potential control under reasonable progress in accordance with EPA regulations and guidance.

Comment 7: According to the Commenter, additional reasonable progress is necessary at the Wolf Island and Okefenokee Wilderness Areas, where the URP is not predicted to be met. The Commenter states that Georgia has a responsibility to ensure that all necessary emissions reductions take place and must show that its RPGs are reasonable based on the evaluation of any potentially affected sources. The Commenter regards Georgia's efforts to only evaluate sources that contributed to visibility impairment from SO_2 over a certain threshold as inadequate. The Commenter recommends that EPA ensure that additional sources, if not all contributing sources of all visibility-impairing pollutants, be evaluated for reasonable progress.

Response 7: EPA's RHR requires states to establish RPGs, measured in deciviews, for each mandatory federal Class I area for the purpose of improving visibility on the haziest days and ensuring no degradation in visibility on the clearest days over the period of each implementation plan. *See* 40 CFR 51.308(d)(1). RPGs are interim goals that represent incremental visibility improvement over time toward the goal of natural background conditions and are developed in consultation with other affected states and Federal Land Managers.

The RHR establishes an additional analytical requirement for states in the process of establishing the RPG. This analytical requirement requires states to determine the rate of improvement in visibility needed to reach natural conditions by 2064, and to set each RPG taking this ''glidepath'' into account. EPA adopted this approach, in part, to ensure that states use a common analytical framework that accounts for the regional differences affecting visibility and, in part, to ensure an informed and equitable decision making process. The glidepath is not a presumptive target, and states may establish a RPG that provides for greater, lesser, or equivalent visibility improvement as that described by the glidepath. As noted in EPA guidance, in deciding what amount of emissions reduction is appropriate in setting the RPG, the states may take into account the fact that the long-term goal of no manmade impairment encompasses several implementation periods.[9]

Consistent with EPA's Reasonable Progress Guidance, GA EPD performed a detailed analysis to determine which sources and emissions most contributed to visibility impairment. The conclusion of this analysis was that Georgia should consider what additional control measures for electric utilities and industrial boilers are reasonable. GA EPD also determined that it was appropriate to also consider additional control measures from industrial sources other than boilers that contributed to the same magnitude of visibility impairment as boilers, and EPA agrees with this determination. Under Georgia's rule, ''Clean Air Interstate Rule SO_2 Annual Trading Program,'' which incorporates by reference all the provisions of EPA's CAIR rule, SO_2 emissions from Georgia EGUs will be capped at 149,140 tons in 2015, a 70 percent reduction from 2002 actual emissions. *See* Georgia Air Quality Control Rules 391–3–1–.02(13).

For sources that significantly contribute to visibility impairment at mandatory Class I federal areas not clearly meeting the URP (such as Okefenokee and Wolf Island), GA EPD did consider additional controls at CAIR-affected units. However, the State concluded, based on the four statutory factors, that no additional emissions reductions beyond CAIR from these sources were reasonable for this implementation period, and EPA agrees with the State's determination. Expected emissions reductions are projected to achieve a 3.28 deciviews of improvement in visibility at Okefenokee and Wolf Island by 2018, while 3.6 deciviews of improvement in visibility would meet URP in 2018. Since the Okefenokee and Wolf Island RPGs show a slower rate of improvement in visibility than the rate that would be needed to attain natural conditions by 2064 (i.e., the URP or glidepath), GA EPD estimated that an additional 6–7 years are needed to attain natural conditions. EPA concludes that Georgia's RPGs were developed consistent with the RHR and EPA guidance.

Comment 8: The Commenter states that in several instances, Georgia's reasonable progress determinations relied on the predicted decrease in heat input from the subject sources. According to the Commenter, this

[8] *Guidance for Setting Reasonable Progress Goals Under the Regional Haze Program,* July 1, 2007, memorandum from William L.Wehrum, Acting Assistant Administrator for Air and Radiation, to EPA Regional Administrators, EPA Regions 1–10, page 4–2.

[9] *Id.* at pages 1.3–1.4.

assumed decrease in heat input cannot be relied upon unless it is enforceable.

Response 8: Georgia's modeling for 2018 projects its best estimate of likely emissions based on the expected capacity utilization at each facility in 2018, not a worst case based on all facilities operating at maximum allowable capacity. As part of the Visibility Improvement State and Tribal Association of the Southeast (VISTAS) air quality modeling, VISTAS, in cooperation with the other eastern regional planning organizations (RPOs), generated future-year emissions inventories for the electric generating sector of the contiguous United States using the Integrated Planning Model (IPM). IPM is a dynamic linear optimization model that can be used to examine air pollution control policies for various pollutants throughout the contiguous United States for the entire electric power system. The dynamic nature of IPM enables projection of the behavior of the power system over a specified future period. The IPM considers growth in demand for electricity, the construction of new units, changes in fuel mix, as well as a predicted set of emissions controls results in some units projected as having greater utilization (and greater heat input) while others are projected to have less utilization (and less heat input). Optimization logic in IPM determines the least-cost means of meeting electric generation and capacity requirements while complying with specified constraints including air pollution regulations, transmission bottlenecks, and plant-specific operational constraints. The IPM modeling runs took into consideration both CAIR implementation and Georgia's rule, ''Multipollutant Control for Electric Utility Steam Generating Units,'' requirements for Georgia Power. *See* Georgia Air Quality Control Rules 391–3–1-.02(2)(sss). EPA regards this as an appropriate means to project future emissions and changes in visibility.

The five-year review is a mechanism to assure that differences from projected emissions are considered and their impact on the 2018 RPGs is evaluated. In the regional haze program, uncertainties associated with modeled emissions projections into the future are addressed through the requirement under the RHR to submit periodic progress reports in the form of a SIP revision. Specifically, 40 CFR 51.308(g) requires each state to submit a report every five years evaluating progress toward the RPGs for each mandatory Class I area located in the state and for each Class I area outside the state that may be affected by emissions from the state. Since this five-year progress re-evaluation is a mandatory requirement, it is unnecessary for EPA to take additional measures to ''ensure'' that the projections of heat input are legally enforceable. In the specific instances cited by the Commenter, the State's analysis of projected capacity utilization and the resultant heat input and the State's reliance on these projections to establish its RPGs meet the requirements of the regional haze regulations and EPA guidance.

Comment 9: The Commenter expresses concern with the interrelationship of EPA's proposed limited disapproval of Georgia's regional haze SIP submittal in the December 30, 2011, action proposing to find that the Transport Rule is ''Better than BART,'' and EPA's proposed limited approval of the Georgia's regional haze SIP in EPA's February 27, 2012 action. The ''Better than BART'' action states that EPA is proposing a limited disapproval of the LTS and that EPA intends to act on the LTS in a separate action whereas the limited approval action states that EPA is not taking action on Georgia's regional haze SIP insofar as it relied on CAIR, which according to the Commenter, ''presumably includes'' Georgia's LTS. The Commenter believes that each of these actions ''promises that the other will provide a [LTS] but neither rule actually does * * * underscore[ing] the inappropriateness of a 'limited approval.''' The Commenter contends that the SIP must include an adequate LTS that has been subject to public notice and comment. The Commenter also believes that EPA should disapprove Georgia's regional haze SIP because the State's source retirement discussion, required under 40 CFR 51.308(d)(3)(v) as part of a state's LTS development, was inadequate as it was ''limited to now out of date information describing existing, not future, emissions'' and ''contained little discussion of changes in energy and other markets and their likely effect on EGUs and possibly non-EGUs.''

Response 9: EPA explained in its February 27, 2012, action that the Agency was proposing a limited approval of Georgia's February 11, 2010, SIP revision and November 19, 2010, SIP supplement, addressing regional haze because these revisions, as a whole, strengthen the Georgia SIP. Under CAA sections 301(a) and 110(k)(6) and EPA's long-standing guidance, a limited approval results in approval of the entire SIP submittal, even of those parts that are deficient and prevent EPA from granting a full approval of the SIP revision.

In the February 27 action, EPA also explained that the Agency had proposed a limited disapproval of the Georgia regional haze SIP in the December 30 ''Better than BART'' rule because of deficiencies in the State's regional haze SIP submittal arising from the State's reliance on CAIR to meet certain regional haze requirements. EPA stated that it was not proposing to take action in the February 27, 2012, proposed rulemaking on issues associated with Georgia's reliance on CAIR in its regional haze SIP. The limited approval action acted as approval of the entire regional haze SIP, including the LTS, even though it is deficient due to the State's reliance on CAIR. EPA believes that these actions provided sufficient notice allowing the public to comment on the adequacy of the LTS as evidenced by the Commenter's remarks regarding the substance of the State's strategy.

Regarding the content of the LTS, as was discussed in the Georgia SIP revisions and in the February 27, 2012, proposed rulemaking, Georgia did evaluate the potential contributions of all anthropogenic sources and concluded that the preponderance of the visibility impairment was due to sulfates. In particular, for Okefenokee and Cohutta, sulfate particles resulting from SO_2 emissions contribute roughly 69 and 84 percent, respectively, to the calculated light extinction on the haziest days. In contrast, ammonium nitrate contributed five percent or less of the calculated light extinction at VISTAS Class I areas on the 20 percent worst visibility days. Since sulfate particles resulting from SO_2 emissions are the dominant contributor to visibility impairment on the 20 percent worst days at the three Georgia Class I areas, Georgia concluded that reducing SO_2 emissions from EGU and non-EGU point sources in the VISTAS states would have the greatest visibility benefits.

Georgia considered the factors listed in 40 CFR 51.308(d)(3)(v) to develop its LTS as described in detail in the proposed rulemaking. Source retirement and replacement schedules are explicitly part of the emissions inventory that is used to project future conditions and provide a realistic estimate of future visibility impairing emissions from the identified sources. At the time that the analyses were completed, they were based on the best information available. The projected inventories for 2009 and 2018 account for post-2002 emissions reductions from promulgated and proposed federal, state, local, and site-specific control programs.

For EGUs, the IPM was run to estimate emissions of the proposed and existing units in 2009 and 2018 based on expected future demand. Where future demand is projected to exceed existing capacity, IPM adds additional units. Future fuel type usage at individual plants and changes to fuel types were modeled based on the expected availability of fuels, capability of the plant and least cost dispatch projections based on expected price and control requirements. These results were further adjusted based on state and local air agencies' knowledge of planned emissions controls at specific EGUs.

For non-EGUs, VISTAS used recently updated growth and control data consistent with the data used in EPA's CAIR analyses supplemented by state and local air agencies' data and updated forecasts from the U.S. Department of Energy. These updates are documented in the MACTEC emissions inventory report ''Documentation of the 2002 Base Year and 2009 and 2018 Projection Year Emission Inventories for VISTAS'' dated February 2007 (Appendix C of the February 2010 Georgia regional haze SIP submittal).

As explained in the proposed rulemaking, these projections can be expected to change as additional information regarding future conditions becomes available. For example, new sources may be built, existing sources may shut down or modify production in response to changed economic circumstances, and facilities may change their emissions characteristics as they install control equipment to comply with new rules. To address this, the RHR calls for a five-year progress review after submittal of the initial regional haze plan. The purpose of this progress review is to assess the effectiveness of emissions management strategies in meeting the RPG and to provide an assessment of whether current implementation strategies are sufficient for the state or affected states to meet their RPGs. If a state concludes, based on its assessment, that the RPGs for a Class I area will not be met, the RHR requires the state to take appropriate action. *See* 40 CFR 52.308(h). The nature of the appropriate action will depend on the basis for the state's conclusion that the current strategies are insufficient to meet the RPGs. Georgia specifically committed to follow this process in the LTS portion of its submittal.

Comment 10: The Commenter states that EPA should improve its proposal, enforce the regional haze program, fully evaluate all emissions control options, and require controls that are reasonable, efficient, and cost effective to ''clear the haze along the Appalachian National Scenic Trail and in Great Smoky Mountains National Park.'' The Commenter believes that EPA has ''proposed to exempt'' Georgia's oldest power plants from ''long-standing cleanup requirements in favor of an existing program that, in some cases, will mean little or no actual cleanup.'' The Commenter also contends that sources outside of Georgia contribute to regional haze in the aforementioned areas and that those sources ''must be made responsible.''

Response 10: As discussed in the proposed rulemaking action, states have discretion in weighing the factors that they must consider in evaluating control determinations to satisfy BART and reasonable progress requirements, and EPA finds that Georgia's determinations are consistent with the RHR and EPA guidance. EPA did not propose to ''exempt'' any Georgia sources from regional haze requirements in favor of any existing program. As allowed by the regional haze regulations at the time, Georgia relied on CAIR for some of its power plants rather than performing source-specific BART evaluations. For reasonable progress, Georgia concluded that additional EGU control beyond CAIR during the first implementation period was not reasonable for these sources after consideration of the four statutory factors for each of the affected units.

Regarding sources outside of Georgia and their contribution to visibility impairment at Georgia's Class I areas, as discussed in the proposed rulemaking (77 FR 11474–11475), Georgia's regional haze SIP satisfies the regional haze requirements to identify out-of-state sources that cause or contribute to visibility impairment in the State's Class I areas and documents consultations with such states to obtain any appropriate emissions reductions. The State notes in its SIP that many of these sources located in other states are subject to control because of CAIR's requirements.

III. What is the effect of this final action?

Under CAA sections 301(a) and 110(k)(6), and EPA's long-standing guidance, a limited approval results in approval of the entire SIP revision, even of those parts that are deficient and prevent EPA from granting a full approval of the SIP revision.[10] Today, EPA is finalizing a limited approval of Georgia's February 11, 2010, and November 19, 2010, regional haze SIP revisions. This limited approval results in approval of Georgia's entire regional haze submission and all its elements. EPA is taking this approach because Georgia's SIP will be stronger and more protective of the environment with the implementation of those measures by the State and having federal approval and enforceability than it would without those measures being included in its SIP.

[10] 1992 Calcagni Memorandum.

IV. Final Action

EPA is finalizing a limited approval of a revision to the Georgia SIP submitted by the State of Georgia on February 11, 2010, as supplemented November 19, 2010, as meeting some of the applicable regional haze requirements as set forth in sections 169A and 169B of the CAA and in 40 CFR 51.300–308.

V. Statutory and Executive Order Reviews

A. Executive Order 12866, Regulatory Planning and Review

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review.''

B. Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.,* OMB must approve all ''collections of information'' by EPA. The Act defines ''collection of information'' as a requirement for answers to * * * identical reporting or recordkeeping requirements imposed on ten or more persons. * * * 44 U.S.C. 3502(3)(A). The Paperwork Reduction Act does not apply to this action.

C. Regulatory Flexibility Act (RFA)

The RFA generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the federal-state relationship under the CAA, preparation of flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.,* v. *EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

D. Unfunded Mandates Reform Act (UMRA)

Under sections 202 of the UMRA of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that today's action does not include a federal mandate that may result in estimated costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This federal action approves pre-existing requirements under state or local law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

E. Executive Order 13132, Federalism

Executive Order 13132 (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, EPA may not issue a regulation that has Federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the federal government provides the funds necessary to pay the direct compliance costs incurred by state and local governments, or EPA consults with state and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has Federalism implications and that preempts state law unless the Agency consults with state and local officials early in the process of developing the proposed regulation.

This rule will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

F. Executive Order 13175, Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This rule does not have tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments. Thus, Executive Order 13175 does not apply to this rule.

G. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

Protection of Children From Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

H. Executive Order 13211, Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

Section 12 of the NTTAA of 1995 requires federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

K. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by June 28, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it

extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: June 15, 2012.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart L—Georgia

■ 2. Section 52.570, the table in paragraph (e) is amended by adding entries 34. and 35. in numerical order to read as follows:

§ 52.570 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED GEORGIA NON-REGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or non-attainment area	State submittal date/effective date	EPA approval date
* * *	* *	*	*
34. Regional Haze Plan	Statewide	2/11/10	6/28/12 [Insert citation of publication]
35. Regional Haze Plan Supplement (including BART and Reasonable Progress emissions limits).	Statewide	11/19/10	6/28/12 [Insert citation of publication]

[FR Doc. 2012–15691 Filed 6–27–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2009–0785; FRL–9691–7]

Approval and Promulgation of Implementation Plans; South Carolina; Regional Haze State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing a limited approval of a revision to the South Carolina State Implementation Plan (SIP) submitted by the State of South Carolina through the South Carolina Department of Health and Environmental Control (SC DHEC) on December 17, 2007. South Carolina's December 17, 2007, SIP revision addresses regional haze for the first implementation period. Specifically, this SIP revision addresses the requirements of the Clean Air Act (CAA or Act) and EPA's rules that require states to prevent any future and remedy any existing anthropogenic impairment of visibility in mandatory Class I areas (national parks and wilderness areas) caused by emissions of air pollutants from numerous sources located over a wide geographic area (also referred to as the ''regional haze program''). States are required to assure reasonable progress toward the national goal of achieving natural visibility conditions in Class I areas. EPA is finalizing a limited approval of South Carolina's December 17, 2007, SIP revision to implement the regional haze requirements for South Carolina on the basis that this SIP revision, as a whole, strengthens the South Carolina SIP. Additionally, EPA is rescinding the Federal regulations previously approved into the South Carolina SIP on July 12, 1985, and November 24, 1987, and is approving the provisions in South Carolina's December 17, 2007, SIP submittal to meet the monitoring and long-term strategy (LTS) requirements for reasonably attributable visibility impairment (RAVI). In a separate action published on June 7, 2012, EPA finalized a limited disapproval of this same SIP revision because of the deficiencies in the State's regional haze SIP revision arising from the remand by the U.S. Court of Appeals for the District of Columbia Circuit (DC Circuit) to EPA of the Clean Air Interstate Rule (CAIR).

DATES: *Effective Date:* This rule will be effective July 30, 2012, except for the amendment to § 52.2132, which is effective on August 7, 2012.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2009–0785. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section for further information. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Michele Notarianni, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Michele Notarianni can be reached at telephone number (404) 562–9031 and by electronic mail at *notarianni.michele@epa.gov*.

SUPPLEMENTARY INFORMATION:

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I. What is the background for this final action?

Regional haze is visibility impairment that is produced by a multitude of sources and activities which are located across a broad geographic area and emit fine particles (e.g., sulfates, nitrates, organic carbon, elemental carbon, and soil dust), and their precursors (e.g., sulfur dioxide (SO_2), nitrogen oxides (NO_X), and in some cases, ammonia and volatile organic compounds. Fine particle precursors react in the atmosphere to form fine particulate matter ($PM_{2.5}$) which impairs visibility by scattering and absorbing light. Visibility impairment reduces the clarity, color, and visible distance that one can see. $PM_{2.5}$ can also cause serious health effects and mortality in humans and contributes to environmental effects such as acid deposition and eutrophication.

In section 169A of the 1977 Amendments to the CAA, Congress created a program for protecting visibility in the nation's national parks and wilderness areas. This section of the CAA establishes as a national goal the ''prevention of any future, and the remedying of any existing, impairment of visibility in mandatory Class I areas which impairment results from manmade air pollution.'' On December 2, 1980, EPA promulgated regulations to address visibility impairment in Class I areas that is ''reasonably attributable'' to a single source or small group of sources, i.e., ''reasonably attributable visibility impairment.'' *See* 45 FR 80084. These regulations represented the first phase in addressing visibility impairment. EPA deferred action on regional haze that emanates from a variety of sources until monitoring, modeling, and scientific knowledge about the relationships between pollutants and visibility impairment were improved.

Congress added section 169B to the CAA in 1990 to address regional haze issues. EPA promulgated a rule to address regional haze on July 1, 1999 (64 FR 35714), the Regional Haze Rule (RHR). The RHR revised the existing visibility regulations to integrate into the regulation provisions addressing regional haze impairment and established a comprehensive visibility protection program for Class I areas. The requirements for regional haze, found at 40 CFR 51.308 and 51.309, are included in EPA's visibility protection regulations at 40 CFR 51.300 through .309. The requirement to submit a regional haze SIP applies to all 50 states, the District of Columbia, and the Virgin Islands. 40 CFR 51.308(b) requires states to submit the first implementation plan addressing regional haze visibility impairment no later than December 17, 2007.

On December 17, 2007, SC DHEC submitted a revision to South Carolina's SIP to address regional haze in the State's and other states' Class I areas. On February 28, 2012, EPA published an action proposing a limited approval of South Carolina's December 17, 2007, SIP revision to address the first implementation period for regional haze.[1] *See* 77 FR 11894. EPA proposed a limited approval of South Carolina's December 17, 2007, SIP revision to implement the regional haze requirements for South Carolina on the basis that this revision, as a whole, strengthens the South Carolina SIP. See section II of this rulemaking for a summary of the comments received on the proposed actions and EPA's responses to these comments. Detailed background information and EPA's rationale for the proposed action is provided in EPA's February 28, 2012, proposed rulemaking.

Following the remand of CAIR, EPA issued a new rule in 2011 to address the interstate transport of NO_X and SO_2 in the eastern United States. *See* 76 FR 48208 (August 8, 2011) (''the Transport Rule,'' also known as the Cross-State Air Pollution Rule (CSAPR)). On December 30, 2011, EPA proposed to find that the trading programs in the Transport Rule would achieve greater reasonable progress towards the national goal of achieving natural visibility conditions than would best available retrofit technology (BART) in the states in which the Transport Rule applies (including South Carolina). *See* 76 FR 82219. Based on this proposed finding, EPA also proposed to revise the RHR to allow states to substitute participation in the trading programs under the Transport Rule for source-specific BART. EPA finalized this finding and RHR revision on June 7, 2012 (77 FR 33642).

Also on December 30, 2011, the DC Circuit stayed the Transport Rule (including the provisions that would have sunset CAIR and the CAIR FIPs) and instructed the EPA to continue to administer CAIR pending the outcome of the court's decision on the petitions for review challenging the Transport Rule. *EME Homer City* v. *EPA,* No. 11–1302.

[1] In a separate action, published on June 7, 2012 (77 FR 33642), EPA finalized a limited disapproval of the South Carolina regional haze SIP because of deficiencies in the State's regional haze SIP submittal arising from the State's reliance on CAIR to meet certain regional haze requirements. Also, in that June 7, 2012, action, EPA finalized a Federal Implementation Plan (FIP) for South Carolina to address the deficiencies that resulted from the State's reliance on CAIR for their regional haze SIP.

II. What is EPA's response to comments received on this action?

EPA received one set of comments on the February 28, 2012, rulemaking proposing a limited approval of South Carolina's December 17, 2007, regional haze SIP revision. Specifically, the comments were received from the Southern Environmental Law Center on behalf of the South Carolina Coastal Conservation League. A full set of the comments provided by the aforementioned entity (hereinafter referred to as ''the Commenter'') is provided in the docket for today's final action. A summary of the comments and EPA's responses are provided below.

Comment 1: The Commenter incorporates by reference comments submitted to EPA on February 28, 2012, by the ''Sierra Club, Earthjustice, and other organizations'' regarding the Agency's December 30, 2011, proposed rulemaking to find that the Transport Rule is ''better than BART'' and to use the Transport Rule as an alternative to BART for South Carolina and other states subject to the Transport Rule. *See* 76 FR 82219. The Commenter also restates several of these comments, including the following: the Transport Rule does not comply with EPA's criteria for an alternative to BART; the State cannot rely on the proposed ''better than BART'' rulemaking given the DC Circuit's action staying implementation of the Transport Rule; concluding that the Transport Rule achieves greater reasonable progress toward national visibility conditions than BART, without regard to defined reasonable progress goals (RPGs), is arbitrary and contrary to the CAA; EPA has not accounted for the differences in averaging time under BART, the Transport Rule, and in measuring visibility impacts; EPA's modeling assumed nitrate levels that are often lower than real-world conditions; in some instances, EPA relied on a single monitor to assess visibility conditions in multiple Class I areas; EPA uses a simple arithmetic mean to conclude that visibility improvements will be greater under the Transport Rule than BART; and EPA's proposed ''Better than BART'' determination relies on a 2014 base case that does not account for permanent emissions reductions at non-BART eligible sources.

Response 1: These comments are beyond the scope of this rulemaking. In today's action, EPA is finalizing a limited approval of South Carolina's regional haze SIP. EPA did not propose to find that participation in the

Transport Rule is an alternative to BART in this action nor did EPA reopen discussions on the CAIR provisions as they relate to BART.[2] As noted above, EPA proposed to find that the Transport Rule is ''Better than BART'' and to use the Transport Rule as an alternative to BART for South Carolina in a separate action on December 30, 2011, and the Commenter is merely reiterating and incorporating comments submitted on that separate action. EPA addressed these February 28, 2012, comments concerning the Transport Rule as a BART alternative in a final action that was published on June 7, 2012, and has determined that they do not affect the Agency's ability to finalize a limited approval of South Carolina's regional haze SIP. EPA's responses to these comments can be found in Docket ID No. EPA–HQ–OAR–2011–0729 at *www.regulations.gov*.

Comment 2: The Commenter asserts that the proposed limited approval violates the CAA and RHR because a regional haze plan's BART requirements and long-term strategy to achieve reasonable progress cannot be evaluated in isolation from one another. The Commenter supports its position by repeating statements made in the aforementioned February 28, 2012, comments on the Agency's proposed December 30, 2011, rulemaking to find that the Transport Rule is ''better than BART'' and to use the Transport Rule as an alternative to BART for South Carolina and other states subject to the Transport Rule. For example, the Commenter states that ''[b]ecause BART is a critical component to achieving reasonable progress, neither the states nor EPA are authorized to exempt sources from the RHR's BART requirements without considering how doing so will affect the overarching reasonable progress mandate. * * * Concluding that CSAPR achieves greater reasonable progress toward achieving natural visibility conditions than BART, without regard to defined reasonable progress goals, is arbitrary and contrary to law under the Clean Air Act and the RHR.''

Response 2: As discussed in the response to Comment 1, today's action does not address reliance on CAIR or CSAPR to satisfy BART requirements. Comments related to the approvability of CAIR or CSAPR for the South Carolina regional haze SIP are therefore beyond the scope of this rulemaking and were addressed by EPA in a separate action published on June 7, 2012 (77 FR 33642). EPA addressed the Commenter's repeated statements regarding the interrelatedness of BART, the LTS, and RPGs in that final rulemaking action and those responses support this limited approval action.[3]

Comment 3: The Commenter asserts that EPA does not have the authority under the CAA to issue a limited approval of South Carolina's regional haze SIP. The Commenter contends that section 110(k) of the Act only allows EPA to fully approve, partially approve and partially disapprove, conditionally approve, or fully disapprove a SIP.

Response 3: As discussed in the September 7, 1992, EPA memorandum cited in the notice of proposed rulemaking,[4] although section 110(k) of the CAA may not expressly provide authority for limited approvals, the plain language of section 301(a) does provide ''gap-filling'' authority authorizing the Agency to ''prescribe such regulations as are necessary to carry out'' EPA's CAA functions. EPA may rely on section 301(a) in conjunction with the Agency's SIP approval authority in section 110(k)(3) to issue limited approvals where it has determined that a submittal strengthens a given state's implementation plan, and that the provisions meeting the applicable requirements of the Act are not separable from the provisions that do not meet the Act's requirements. EPA has adopted the limited approval approach numerous times in SIP actions across the nation over the last 20 years. A limited approval action is appropriate here because EPA has determined that South Carolina's SIP revision addressing regional haze, as a whole, strengthens the State's implementation plan and because the provisions in the SIP revision are not separable.

The Commenter states that EPA's action ''conflicts with the plain language of the [CAA]'' and cites several Federal appellate court decisions to support its contention that section 110(k) of the Act limits EPA to a full approval, ''a conditional approval, a partial approval and disapproval, or a full disapproval.'' However, adopting the Commenter's position would ignore section 301 and violate the '' 'fundamental canon of statutory construction that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme' * * * A court must therefore interpret the statute 'as a symmetrical and coherent regulatory scheme,' * * * and 'fit, if possible, all parts into an harmonious whole.' '' *FDA* v. *Brown & Williamson Tobacco Corp.,* 529 U.S. 120, 133 (2000) (quoting *Davis* v. *Michigan Dept. of Treasury,* 489 U.S. 803, 809 (1989), *Gustafson* v. *Alloyd Co.,* 513 U.S. 561, 569 (1995), and *FTC* v. *Mandel Brothers, Inc.,* 359 U.S. 385, 389 (1959)). Furthermore, the cases cited by the Commenter did not involve challenges to a limited approval approach, and one of the cases, *Abramowitz* v. *EPA,* 832 F.2d 1071 (9th Cir. 1988), predates the 1990 CAA amendments enacting section 110(k).

Comment 4: The Commenter contends that it was inappropriate for the State to ''rel[y] on CAIR (and now CSAPR)'' in determining RPGs and that due, in part, to this reliance, the State ''failed to evaluate numerous sources that contribute significantly to visibility impairment at the State's Class I areas'' and that it ''cast doubts on the validity of DHEC's modeling.'' The Commenter therefore believes that EPA should not approve the SIP unless the State considers additional reasonable progress from the 10 electric generating units (EGUs) excluded from the reasonable progress analyses and the State conducts further analyses in setting its RPGs (or EPA ''ensure[s] that DHEC follows through on its commitment to re-evaluate its ability to meet its RPGs in the 5-year progress review, pursuant to 40 CFR. 52.308(g)''). The Commenter also states that ''even when the uniform rate of progress [URP] is predicted to be met, the state still has an obligation 'to go beyond the URP analysis in establishing RPGs * * * to determine whether additional progress would be reasonable based on the statutory factors.'''

Response 4: The State took into account emissions reductions expected from CAIR to determine the 2018 RPGs for its Class I area, and this approach was fully consistent with EPA guidance at the time of SIP development. In the regional haze program, uncertainties associated with modeled emissions

[2] In a final action published on July 6, 2005, EPA addressed similar comments related to CAIR and determined that CAIR makes greater reasonable progress than BART for certain EGUs and pollutants (70 FR 39138–39143). EPA did not reopen comment on that issue through this rulemaking.

[3] *See* EPA, Response to Comments Document, Regional Haze: Revisions to Provisions Governing Alternatives to Source-Specific Best Available Retrofit Technology (BART) Determinations, Limited SIP Disapprovals, and Federal Implementation Plans (76 FR 82219; December 30, 2011), Docket Number EPA–HQ–OAR–2011–0729 (May 30, 2012), pages 49–51 (noting that EPA ''disagree[s] with comments that we cannot evaluate the BART requirements in isolation from the reasonable progress requirements. We have on several occasions undertaken evaluations of a state's BART determination or promulgated a FIP separately from our evaluation of whether the SIP as a whole will ensure reasonable progress.'').

[4] *Processing of State Implementation Plan (SIP) Revisions,* EPA Memorandum from John Calcagni, Director, Air Quality Management Division, OAQPS, to Air Division Directors, EPA Regional Offices I–X, September 7, 1992, (''1992 Calcagni Memorandum'') located at *http://www.epa.gov/ttn/caaa/t1/memoranda/siproc.pdf*.

projections into the future are addressed through the requirement under the RHR to submit periodic progress reports in the form of a SIP revision. Specifically, 40 CFR 51.308(g) requires each state to submit a report every five years evaluating progress toward the RPGs for each mandatory Class I area located in the state and for each Class I area outside the state that may be affected by emissions from the state. Since this 5-year progress re-evaluation is a mandatory requirement, it is unnecessary for EPA to take additional measures to ''ensure'' that the State meets its reporting obligation.

Regarding the need to go beyond the URP analysis when establishing RPGs, EPA affirmed in the RHR that the URP is not a ''presumptive target;'' rather, it is an analytical requirement for setting RPGs. *See* 64 FR 35731 and 35732, July 1, 1999. In determining RPGs for the South Carolina Class I area, the State identified sources through its area of influence methodology for reasonable progress control evaluation and described those evaluations in its SIP. For its EGUs subject to CAIR, SC DHEC reviewed the statutory factors (i.e., the costs of compliance, the time necessary for compliance, the energy and non-air quality environmental impacts of compliance, and the remaining useful life of any potentially affected sources) as evaluated by EPA for CAIR.

Comment 5: The Commenter contends that the emissions reductions from some of the significant CAA emissions control programs and consent decrees identified in the 2018 emissions inventory are speculative and uncertain. The Commenter therefore believes that EPA should require South Carolina to address any discrepancies, prior to approval of the State's regional haze SIP.

Response 5: The technical information provided in the record demonstrates that the emissions inventory in the SIP adequately reflects projected 2018 conditions and that the LTS meets the requirements of the RHR and is approvable. South Carolina's 2018 projections are based on the State's technical analysis of the anticipated emissions rates and level of activity for EGUs, other point sources, nonpoint sources, on-road sources, and off-road sources based on their emissions in the 2002 base year, considering growth and additional emissions controls to be in place and federally enforceable by 2018. The emissions inventory used in the regional haze technical analyses was developed by the Visibility Improvement State and Tribal Association of the Southeast (VISTAS) with assistance from South Carolina. The 2018 emissions inventory was developed by projecting 2002 emissions (the latest region-wide inventory available at the time the submittal was being developed) and applying reductions expected from Federal and state regulations affecting the emissions of VOC and the visibility impairing pollutants NO_X, particulate matter (PM), and SO_2. To minimize the differences between the 2018 projected emissions used in the South Carolina regional haze submittal and what actually occurs in 2018, the RHR requires that the 5-year review address any expected significant differences due to changed circumstances from the initial 2018 projected emissions, provide updated expectations regarding emissions for the implementation period, and evaluate the impact of these differences on RPGs. It is expected that individual projections within a statewide inventory will vary from actual emissions over a 16-year period. For example, some facilities shut down whereas others expand operations. Furthermore, economic projections and population changes used to estimate growth often differ from actual events; new rules are modified, changing their expected effectiveness; and methodologies to estimate emissions improve, modifying emissions estimates. The 5-year review is a mechanism to assure that these expected differences from projected emissions are considered and their impact on the 2018 RPGs is evaluated. EPA finds that these inventories provide a reasonable assessment of future emissions from South Carolina sources.

Comment 6: The Commenter states that in exempting EGUs from a BART analysis ''on the basis that their contribution to visibility impairment modeled less than 0.5 deciview, it does not appear that DHEC considered the cumulative impact of those sources that did not individually exceed the 0.5 dv threshold, but collectively may cause or contribute to impairment.'' The Commenter cites to EPA guidelines in 70 FR 39161 and39162, July 6, 2005, to support its belief that this exemption threshold ''applies when all visibility impairing pollutants are modeled together, not one pollutant at a time, as used by DHEC.'' According to the Commenter, when considering the modeling impacts from coarse particulate matter (PM_{10}) alone for the exempted sources, their combined ''contribution to visibility impairment greatly exceeds the 0.5 dv contribution threshold,'' calling into question the ''validity of DHEC's exemptions of multiple sources from BART.''

Response 6: As discussed in the proposal, (*see* section IV.C.6.B.2, February 28, 2012, 77 FR 11908), South Carolina adequately justified its contribution threshold of 0.5 deciview. While states have the discretion to set an appropriate contribution threshold considering the number of emissions sources affecting the Class I area at issue and the magnitude of the individual sources' impacts, the states' analysis must be consistent with the CAA, the RHR, and EPA's *Guidelines for BART Determinations Under the Regional Haze Rule* at Appendix Y to 40 CFR part 51 (BART Guidelines). Consistent with the regulations and EPA's guidance, ''the contribution threshold should be used to determine whether an individual source is reasonably anticipated to contribute to visibility impairment. You should not aggregate the visibility effects of multiple sources and compare their collective effects against your contribution threshold because this would inappropriately create a 'contribution to contribution' test.'' *See also* 70 FR 39121, Note 34, July 6, 2005. South Carolina's analysis in the regional haze SIP revision was consistent with EPA's regulations and guidance on the issue of cumulative analyses.

Regarding modeling in South Carolina's submittal that uses PM only for its BART-eligible EGUs, EPA previously determined that this approach is appropriate for EGUs where the State proposed to rely on CAIR to satisfy the BART requirements for SO_2 and NO_X.[5]

Comment 7: The Commenter believes that the PM BART determinations for South Carolina Electric & Gas' (''SCE&G's'') Wateree and Williams stations are flawed because ''it appears that DHEC did not evaluate BART for all particulate matter. BART requires an evaluation of technology for filterable PM_{10} and $PM_{2.5}$ as well as condensable particulate matter * * *. DHEC's BART determinations * * * appear to have been based [on] cost analyses that were conducted for condensable PM_{10}. The finer fractions of particulate matter ($PM_{2.5}$) make a relatively larger contribution to visibility impacts. This has an impact in estimating emission reductions and selecting the most effective controls. EPA must require DHEC to conduct new BART determinations that correct this flaw.''

Response 7: It is unclear from the comment what PM control strategies

[5] *Regional Haze Regulations and Guidelines for Best Available Retrofit Technology (BART) Determinations,* EPA Memorandum from Joseph Paisie, Group Leader, Geographic Strategies Group, OAQPS, to Kay Prince, Branch Chief, EPA Region 4, July 19, 2006, located at: *http://www.epa.gov/visibility/pdfs/memo_2006_07_19.pdf.*

were allegedly ignored by the State in the BART analyses for these two stations. Each of the control options evaluated for these facilities in South Carolina's regional haze SIP submittal considered the contribution of total PM_{10} and $PM_{2.5}$ (as a subset of the total PM_{10}) as well as condensables (primarily sulfuric acid mist) (see Appendix H.6 of South Carolina's December 17, 2007, SIP submittal). The installed controls on both facilities are effective at reducing filterable and condensable particulates, and as a result, the State determined that additional reductions were not cost effective. The Commenter did not identify any alternative control technology for fine particles not considered by the State that could affect the BART determination.

Comment 8: According to the Commenter, it was ''inappropriate and arbitrary for DHEC to use the CAIR cost per ton of SO_2 removed as the cost threshold for evaluating reasonable progress controls. The only rationale DHEC offered in support of this decision was that DHEC 'believes it is not equitable to require non-EGUs to bear a greater economic burden than EGUs for a given control strategy' * * *. EPA, likewise, acknowledges that 'the use of a specific threshold for assessing costs means that a state may not fully consider available emissions reduction measures above its threshold that would result in meaningful visibility improvement,' but proposes to approve South Carolina's reasonable progress analysis anyway * * * EPA should re-evaluate this decision in its final action on this proposal, especially in light of the fact that DHEC determined that no additional reasonable controls were required at any of the sources affecting visibility in South Carolina's Class I area.''

Response 8: As noted in EPA's Reasonable Progress Guidance [6] and discussed further in EPA's February 28, 2012, proposal action on the South Carolina regional haze SIP submittal (77 FR 11906), the states have wide latitude to determine appropriate additional control requirements for ensuring reasonable progress, and there are many ways for a state to approach identification of additional reasonable measures. States must consider, at a minimum, the four statutory factors in determining reasonable progress, but states have flexibility in how to take these factors into consideration.

After reviewing DHEC's methodology and analyses and the record prepared by DHEC, EPA finds South Carolina's conclusion that no further controls are necessary at this time acceptable and that the State adequately evaluated the control technologies available at the time of its analysis and applicable to this type of facility and consistently applied its criteria for reasonable compliance costs. See 77 FR 11906, February 28, 2012. The State also included appropriate documentation in its SIP of the technical analysis it used to assess the need for and implementation of reasonable progress controls. Although the use of a specific threshold for assessing costs means that a state may not fully consider available emissions reduction measures above its threshold that would result in meaningful visibility improvement, EPA believes that the South Carolina SIP ensures reasonable progress.

In approving South Carolina's reasonable progress analysis, EPA is placing great weight on the fact that there is no indication in the SIP revision that South Carolina, as a result of using a specific cost effectiveness threshold, rejected potential reasonable progress measures that would have had a meaningful impact on visibility in its Class I areas.

III. What is the effect of this final action?

Under CAA sections 301(a) and 110(k)(6) and EPA's long-standing guidance, a limited approval results in approval of the entire SIP revision, even of those parts that are deficient and prevent EPA from granting a full approval of the SIP revision.[7] Today, EPA is finalizing a limited approval of South Carolina's December 17, 2007, regional haze SIP revision. This limited approval results in approval of South Carolina's entire regional haze submission and all its elements. EPA is taking this approach because South Carolina's SIP will be stronger and more protective of the environment with the implementation of those measures by the State and having Federal approval and enforceability than it would without those measures being included in its SIP.

IV. Final Action

EPA is finalizing a limited approval of a revision to the South Carolina SIP submitted by the State of South Carolina on December 17, 2007, as meeting some of the applicable regional haze requirements as set forth in sections 169A and 169B of the CAA and in 40 CFR 51.300–308. Also in this action, EPA is rescinding the Federal regulations in 40 CFR 52.2132 that were approved into the South Carolina SIP on July 12, 1985, and November 24, 1987, and is approving the provisions in South Carolina's December 17, 2007, SIP submittal to meet the monitoring and LTS requirements for RAVI at 40 CFR 51.305 and 40 CFR 51.306, respectively.

V. Statutory and Executive Order Reviews

A. Executive Order 12866, Regulatory Planning and Review

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review.''

B. Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.,* OMB must approve all ''collections of information'' by EPA. The Act defines ''collection of information'' as a requirement for answers to * * * identical reporting or recordkeeping requirements imposed on ten or more persons * * * 44 U.S.C. 3502(3)(A). The Paperwork Reduction Act does not apply to this action.

C. Regulatory Flexibility Act (RFA)

The RFA generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the Federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the Federal-state relationship under the CAA, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such

[6] *Guidance for Setting Reasonable Progress Goals Under the Regional Haze Program,* July 1, 2007, memorandum from William L.Wehrum, Acting Assistant Administrator for Air and Radiation, to EPA Regional Administrators, EPA Regions 1–10 (''EPA's Reasonable Progress Guidance''), page 4–2.

[7] 1992 Calcagni Memorandum.

grounds. *Union Electric Co.,* v. *EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

D. Unfunded Mandates Reform Act (UMRA)

Under sections 202 of the UMRA of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that today's action does not include a Federal mandate that may result in estimated costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This Federal action approves pre-existing requirements under state or local law, and imposes no new requirements. Accordingly, no additional costs to state, local, or tribal governments, or to the private sector, result from this action.

E. Executive Order 13132, Federalism

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, EPA may not issue a regulation that has Federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by state and local governments, or EPA consults with state and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has Federalism implications and that preempts state law unless the Agency consults with state and local officials early in the process of developing the proposed regulation.

This rule will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

F. Executive Order 13175, Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' Consistent with the EPA Policy on Consultation and Coordination with Indian Tribes, EPA complies with this Executive Order through the process of tribal consultation. With respect to today's action, EPA has offered the Catawba Indian Nation two opportunities to consult.[8] First, in an email dated October 21, 2010, EPA extended the Catawba Indian Nation an opportunity to consult, however, the Tribe declined to consult with EPA at that time. Due to the passage of time between the initial offer of consultation and today's proposed action, EPA provided the Catawba Indian Nation a second opportunity to consult on the South Carolina Regional Haze SIP revision on February 1, 2012. In an email dated February 8, 2012, the Catawba Indian Nation stated that no consultation on this pending action was needed by the Tribe. Further, EPA has no information to suggest that today's action will impose substantial direct costs on tribal governments or preempt tribal law.

G. Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

H. Executive Order 13211, Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

Section 12 of the NTTAA of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a

[8] The Catawba Indian Nation Reservation is located within the South Carolina. Generally, SIPs do not apply in Indian country throughout the United States, however, for purposes of the Catawba Indian Nation Reservation in Rock Hill, the South Carolina SIP does apply within the Reservation pursuant to the Catawba Indian Claims Settlement Act, S.C. Code Ann. 27–16–120 (providing that ''all state and local environmental laws and regulations apply to the [Catawba Indian Nation] and Reservation and are fully enforceable by all relevant state and local agencies and authorities.'')

copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

K. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 27, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: June 13, 2012.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

Therefore, 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

■ 2. Section 52.2120 (e) is amended by adding an entry for ''Regional Haze Plan'' at the end of the table to read as follows:

§ 52.2120 Identification of plan.

* * * * *

(e) * * *

EPA-APPROVED SOUTH CAROLINA NON-REGULATORY PROVISIONS

Provision	State effective date	EPA approval date	Explanation
* * *	*	*	* *
Regional haze plan	12/17/2007	6/28/2012	[Insert citation of publication].

■ 3. Section 52.2132 is amended by removing and reserving paragraph (a) to read as follows:

§ 52.2132 Visibility protection.

(a) [Reserved]

* * * * *

[FR Doc. 2012–15465 Filed 6–27–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R04–OAR–2009–0782; FRL–9691–8]

Approval and Promulgation of Implementation Plans; State of Alabama; Regional Haze State Implementation Plan

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is finalizing a limited approval of a revision to the Alabama State Implementation Plan (SIP) submitted by the State of Alabama through the Alabama Department of Environmental Management (ADEM) on July 15, 2008. Alabama's July 15, 2008, SIP revision addresses regional haze for the first implementation period. Specifically, this SIP revision addresses the requirements of the Clean Air Act (CAA or Act) and EPA's rules that require states to prevent any future and remedy any existing anthropogenic impairment of visibility in mandatory Class I areas (national parks and wilderness areas) caused by emissions of air pollutants from numerous sources located over a wide geographic area (also referred to as the ''regional haze program''). States are required to assure reasonable progress toward the national goal of achieving natural visibility conditions in Class I areas. EPA is finalizing a limited approval of Alabama's July 15, 2008, SIP revision to implement the regional haze requirements for Alabama on the basis that this SIP revision, as a whole, strengthens the Alabama SIP. Additionally, EPA is rescinding the federal regulations previously approved into the Alabama SIP on November 24, 1987, and approving the provisions in Alabama's July 15, 2008, SIP submittal to meet the long-term strategy (LTS) requirements for reasonably attributable visibility impairment (RAVI). In a separate action published on June 7, 2012, EPA finalized a limited disapproval of this same SIP revision because of the deficiencies in the State's regional haze SIP revision arising from the remand by the U.S. Court of Appeals for the District of Columbia Circuit (DC Circuit) to EPA of the Clean Air Interstate Rule (CAIR).

DATES: *Effective Date:* This rule will be effective July 30, 2012, except for the amendment to § 52.61, which is effective on August 7, 2012.

ADDRESSES: EPA has established a docket for this action under Docket Identification No. EPA–R04–OAR–2009–0782. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, i.e., Confidential Business Information or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S. Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. EPA requests that if at all possible, you contact the person listed in the **FOR FURTHER INFORMATION CONTACT** section for further information. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding federal holidays.

FOR FURTHER INFORMATION CONTACT: Michele Notarianni, Regulatory Development Section, Air Planning Branch, Air, Pesticides and Toxics Management Division, U.S.

Environmental Protection Agency, Region 4, 61 Forsyth Street SW., Atlanta, Georgia 30303–8960. Michele Notarianni can be reached at telephone number (404) 562–9031 and by electronic mail at *notarianni.michele@epa.gov.*

SUPPLEMENTARY INFORMATION:

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I. What is the background for this final action?

Regional haze is visibility impairment that is produced by a multitude of sources and activities which are located across a broad geographic area and emit fine particles (e.g., sulfates, nitrates, organic carbon, elemental carbon, and soil dust), and their precursors (e.g., sulfur dioxide (SO_2), nitrogen oxides (NO_X), and in some cases, ammonia and volatile organic compounds. Fine particle precursors react in the atmosphere to form fine particulate matter ($PM_{2.5}$) which impairs visibility by scattering and absorbing light. Visibility impairment reduces the clarity, color, and visible distance that one can see. $PM_{2.5}$ can also cause serious health effects and mortality in humans and contributes to environmental effects such as acid deposition and eutrophication.

In section 169A of the 1977 Amendments to the CAA, Congress created a program for protecting visibility in the nation's national parks and wilderness areas. This section of the CAA establishes as a national goal the ''prevention of any future, and the remedying of any existing, impairment of visibility in mandatory Class I areas which impairment results from manmade air pollution.'' On December 2, 1980, EPA promulgated regulations to address visibility impairment in Class I areas that is ''reasonably attributable'' to a single source or small group of sources, i.e., ''reasonably attributable visibility impairment.'' *See* 45 FR 80084. These regulations represented the first phase in addressing visibility impairment. EPA deferred action on regional haze that emanates from a variety of sources until monitoring, modeling, and scientific knowledge about the relationships between pollutants and visibility impairment were improved.

Congress added section 169B to the CAA in 1990 to address regional haze issues. EPA promulgated a rule to address regional haze on July 1, 1999 (64 FR 35713), the Regional Haze Rule (RHR). The RHR revised the existing visibility regulations to integrate into the regulation provisions addressing regional haze impairment and established a comprehensive visibility protection program for Class I areas. The requirements for regional haze, found at 40 CFR 51.308 and 51.309, are included in EPA's visibility protection regulations at 40 CFR 51.300–309. The requirement to submit a regional haze SIP applies to all 50 states, the District of Columbia, and the Virgin Islands. 40 CFR 51.308(b) requires states to submit the first implementation plan addressing regional haze visibility impairment no later than December 17, 2007.

On July 15, 2008, ADEM submitted a revision to Alabama's SIP to address regional haze in the State's and other states' Class I areas. On February 28, 2012, EPA published an action proposing a limited approval of Alabama's July 15, 2008, SIP revision to address the first implementation period for regional haze.[1] *See* 77 FR 11937. EPA proposed a limited approval of Alabama's July 15, 2008, SIP revision to implement the regional haze requirements for Alabama on the basis that this revision, as a whole, strengthens the Alabama SIP. See section II of this rulemaking for a summary of the comments received on the proposed actions and EPA's responses to these comments. Detailed background information and EPA's rationale for the proposed action is provided in EPA's February 28, 2012, proposed rulemaking. *See* 77 FR 11937.

Following the remand of CAIR, EPA issued a new rule in 2011 to address the interstate transport of NO_X and SO_2 in the eastern United States. *See* 76 FR 48208 (August 8, 2011) (''the Transport Rule,'' also known as the Cross-State Air Pollution Rule (CSAPR)). On December 30, 2011, EPA proposed to find that the trading programs in the Transport Rule would achieve greater reasonable progress towards the national goal of achieving natural visibility conditions than would best available retrofit technology (BART) in the states in which the Transport Rule applies (including Alabama). *See* 76 FR 82219. Based on this proposed finding, EPA also proposed to revise the RHR to allow states to substitute participation in the trading programs under the Transport Rule for source-specific BART. EPA finalized this finding and RHR revision on June 7, 2012 (77 FR 33642).

Also on December 30, 2011, the DC Circuit stayed the Transport Rule (including the provisions that would have sunset CAIR and the CAIR FIPs) and instructed the EPA to continue to administer CAIR pending the outcome of the court's decision on the petitions for review challenging the Transport Rule. *EME Homer City* v. *EPA,* No. 11–1302.

II. What is EPA's response to comments received on this action?

EPA received two sets of comments on the February 28, 2012, rulemaking proposing a limited approval of Alabama's July 15, 2008, regional haze SIP revision. Specifically, the comments were received from the Sierra Club and ADEM. Full sets of the comments provided by all of the aforementioned entities (hereinafter referred to as ''the Commenter'') are provided in the docket for today's final action. A summary of the comments and EPA's responses are provided below.

Comment 1: The Commenter does not believe that ADEM can rely on CAIR or the Transport Rule to exempt the eight power plants with BART-eligible electric generating units (EGUs) from an SO_2 and NO_X BART analysis. The Commenter enclosed letters that it submitted to EPA on February 28, 2012, with its comments on the Agency's proposed December 30, 2011, rulemaking to find that the Transport Rule is ''better than BART'' and to use the Transport Rule as an alternative to BART for Alabama and other states subject to the Transport Rule. *See* 76 FR 82219. The Commenter incorporates the comments in this letter by reference and repeats a subset of those comments, including the following: The Transport Rule cannot serve as a BART alternative for the regional haze SIP process in Alabama; EPA has not demonstrated that the Transport Rule assures greater reasonable progress than source-specific BART; EPA failed to account for the geographical and temporal uncertainties in emissions reductions inherent in a cap-and-trade program such as the Transport Rule; EPA underestimated the visibility improvements from BART using ''presumptive BART, rather than actual BART;'' ''case specific BART determinations for SO_2 emissions from EGUs in Alabama would almost certainly ensure greater progress than would be achieved by CSAPR;'' and

[1] In a separate action, published on June 7, 2012 (77 FR 33642), EPA finalized a limited disapproval of the Alabama regional haze SIP because of deficiencies in the State's regional haze SIP submittal arising from the State's reliance on CAIR to meet certain regional haze requirements. This final limited disapproval triggers a 24-month clock by which a Federal Implementation Plan (FIP) or EPA-approved SIP must be in place to address the deficiencies.

EPA has not accounted for the differences in averaging time under BART, the Transport Rule, and in measuring visibility impacts.

Response 1: These comments are beyond the scope of this rulemaking. In today's rule, EPA is finalizing a limited approval of Alabama's regional haze SIP. EPA did not propose to find that participation in the Transport Rule is an alternative to BART in this action nor did EPA reopen discussions on the CAIR provisions as they relate to BART.[2] As noted above, EPA proposed to find that the Transport Rule is ''Better than BART'' and to use the Transport Rule as an alternative to BART for Alabama in a separate action on December 30, 2011, and the Commenter is merely reiterating and incorporating its comments on that separate action. EPA addressed these comments concerning the Transport Rule as a BART alternative in a final action that was published on June 7, 2012, and has determined that they do not affect the Agency's ability to finalize a limited approval of Alabama's regional haze SIP. EPA's responses to these comments can be found in Docket ID No. EPA–HQ–OAR–2011–0729 at *www.regulations.gov*.

Comment 2: The Commenter asserts that because ''the BART component of Alabama's RH SIP is an essential element to the state's LTS for achieving it RPGs, Alabama's treatment of CAIR (and now EPA's proposed substitution of CSAPR for CAIR) as an acceptable BART-alternative must be addressed in this present comment process. Separating the BART analysis from the remaining portion of the RH SIP would result in an inadequate SIP.'' The Commenter supports its position by repeating statements made in its February 28, 2012, comments on the Agency's proposed December 30, 2011, rulemaking to find that the Transport Rule is ''Better than BART'' and to use the Transport Rule as an alternative to BART for Alabama and other states subject to the Transport Rule. For example, the Commenter states that ''EPA cannot exempt sources from the RHR's BART requirements without full consideration of how that exemption would affect the overarching reasonable progress mandate.''

Response 2: As discussed in the response to Comment 1, today's action does not address reliance on CAIR or CSAPR to satisfy BART requirements. Comments related to the approvability of CAIR or CSAPR for the Alabama regional haze SIP are therefore beyond the scope of this rulemaking and were addressed by EPA in a separate action published on June 7, 2012 (77 FR 33642). EPA addressed the Commenter's repeated statements regarding the interrelatedness of BART, the LTS, and RPGs in that final rulemaking action and those responses support this limited approval action.[3]

EPA believes the Commenter overstates the overarching nature of the changes due to CAIR or CSAPR. The reliance on CAIR in the Alabama submittal was consistent with EPA policy at the time the submittal was prepared. CSAPR is a replacement for CAIR, addressing the same regional EGU emissions, with many similar regulatory attributes. The need to address changes to the LTS resulting from the replacement of CAIR with CSAPR was acknowledged in the proposal, and as stated in the proposal, EPA believes that the five-year progress report is the appropriate time to address any changes to the RPG demonstration and, if necessary, the LTS. EPA expects that this demonstration will address the impacts on the RPG due to the replacement of CAIR with CSAPR as well as other adjustments to the projected 2018 emissions due to updated information on the emissions for other sources and source categories. If this assessment determines an adjustment to the regional haze plan is necessary, EPA regulations require a SIP revision within a year of the five-year progress report.

Comment 3: The Commenter believes that Alabama should have considered the cumulative impacts of the particulate matter (PM) emissions from the State's PM BART-eligible EGUs when performing BART exemption modeling and that the State should not have modeled these sources in isolation of one another or without regard to PM emissions from sources in other states which impact the Sipsey Wilderness Area (Sipsey) or any Class I area. The Commenter also believes that ADEM should have considered both filterable and condensable PM when conducting this modeling.

Response 3: As discussed in the proposal, (*see* section IV.C.6.B.2, February 28, 2012, 77 FR 11950–11951), Alabama adequately justified its contribution threshold of 0.5 deciview. While states have the discretion to set an appropriate contribution threshold considering the number of emissions sources affecting the Class I area at issue and the magnitude of the individual sources' impacts, the states' analysis must be consistent with the CAA, the RHR, and EPA's *Guidelines for BART Determinations Under the Regional Haze Rule* at Appendix Y to 40 CFR part 51 (BART Guidelines). Consistent with the regulations and EPA's guidance, ''the contribution threshold should be used to determine whether an individual source is reasonably anticipated to contribute to visibility impairment. You should not aggregate the visibility effects of multiple sources and compare their collective effects against your contribution threshold because this would inappropriately create a 'contribution to contribution' test.'' *See also* 70 FR 39121. Alabama's analysis in the regional haze SIP revision was consistent with EPA's regulations and guidance on the issue of cumulative analyses.

It is unclear what condensable PM emissions the Commenter believes that the State should have included in its visibility modeling. Each of the units evaluated for BART in Alabama's regional haze SIP followed the Visibility Improvement State and Tribal Association of the Southeast (VISTAS) modeling protocol and considered the contribution of total PM_{10} and $PM_{2.5}$ (as a subset of the total PM_{10}) as well as condensable PM (primarily sulfuric acid mist) (see Appendix H.9 of Alabama's regional haze SIP). Regarding modeling in Alabama's submittal that uses PM only for its BART-eligible EGUs, EPA previously determined that this approach is appropriate for EGUs where the State proposed to rely on CAIR to satisfy the BART requirements for SO_2 and NO_X.[4]

Comment 4: The Commenter disagrees with ADEM's BART analyses for the five BART eligible-units at the Solutia, Inc., facility in Decatur, Alabama, as well as its analyses for the seven BART-eligible units at International Paper's Courtland,

[2] In a final action published on July 6, 2005, EPA addressed similar comments related to CAIR and determined that CAIR makes greater reasonable progress than BART for certain EGUs and pollutants (70 FR 39138). EPA did not reopen comment on that issue through this rulemaking.

[3] *See* EPA, Response to Comments Document, Regional Haze: Revisions to Provisions Governing Alternatives to Source-Specific Best Available Retrofit Technology (BART) Determinations, Limited SIP Disapprovals, and Federal Implementation Plans (76 FR 82219; December 30, 2011), Docket Number EPA–HQ–OAR–2011–0729 (May 30, 2012), pages 49–51 (noting that EPA ''disagree[s] with comments that we cannot evaluate the BART requirements in isolation from the reasonable progress requirements. We have on several occasions undertaken evaluations of a state's BART determination or promulgated a FIP separately from our evaluation of whether the SIP as a whole will ensure reasonable progress.'').

[4] *Regional Haze Regulations and Guidelines for Best Available Retrofit Technology (BART) Determinations,* EPA Memorandum from Joseph Paisie, Group Leader, Geographic Strategies Group, OAQPS, to Kay Prince, Branch Chief, EPA Region 4, July 19, 2006, located at: *http://www.epa.gov/visibility/pdfs/memo_2006_07_19.pdf.*

Alabama, facility (International Paper). In particular, the Commenter states that Alabama's BART analyses failed to consider all available retrofit technologies. The Commenter identified combustion controls that ''should be considered for NO_X BART'' including: flue gas recirculation, overfire air, low NO_X burners, and ultra low NO_X burners; as well as post-combustion controls such as: selective catalytic reduction (SCR) and selective non-catalytic reduction (SNCR). Regarding SO_2 BART, the Commenter believes that ADEM should have considered additional controls such as: ''a number of post-combustion flue gas desulfurization options'' (e.g., dry sorbent injection, spray dryer absorbers, wet scrubbers, circulating dry scrubbers) as well as fuel switching (e.g., switching from coal to oil). For PM BART, the Commenter identifies the following controls for consideration: changing the operation of any air pre-heaters; installing fabric filters or baghouses; installing or upgrading electrostatic precipitators (ESPs); switching to wet ESPs; upgrading electrodes (e.g., possibly changing from wire to rigid discharge electrode); switching to ''a lower sulfur coal or a different sort or blend of fuel;'' addition of a trona injection system; installation of scrubbers; and upgrading any existing scrubbers. The Commenter believes that Alabama should have considered all of the above-mentioned control options when conducting its BART analyses, regardless of their comparative costs.

The Commenter also contends that ADEM: Ignored less costly yet equally efficient controls; should have fully considered options for improving existing controls instead of just those involving a complete replacement of control devices (e.g., ESP upgrade options);'' should have evaluated different combinations of controls in making its BART determinations; and must ensure that current controls are actually operating at BART levels where ADEM concluded that those controls are BART. Finally, the Commenter believes that it is not possible to determine if the proper costing methodology was followed by these sources ''without supporting data in the docket.''

Response 4: As stated in EPA's BART Guidelines, available retrofit control options are those air pollution control technologies with a practical potential for application to the emissions unit and the regulated pollutant under evaluation. In identifying ''all'' options, a state must identify the most stringent option and a reasonable set of options for analysis that reflects a comprehensive list of available technologies. It is not necessary to list all permutations of available control levels that exist for a given technology; the list is complete if it includes the maximum level of control that each technology is capable of achieving.[5]

Attachment H–6 to Appendix H of the State's regional haze SIP submittal summarizes the State's assessment of the available strategies evaluated at each facility for BART, including many of the control options that the Commenter believes were ignored by ADEM; assesses the five statutory BART factors, including ADEM's estimates of the costs of control sufficient to identify and evaluate the cost methodology employed; and describes ADEM's basis for accepting or rejecting each measure as BART. For example, ADEM notes in Appendix H that Solutia has already installed a rotating opposed fired air combustion control system to reduce NO_X formation from Boiler No. 7. ADEM identified SNCR and SCR as available post-combustion control options for this unit and noted that modeling for all of the NO_X control options evaluated indicated relatively small to no reduction in visibility impacts, even with the maximum additional NO_X control. In considering the five BART statutory factors for this unit, ADEM relied most heavily on the lack of visibility improvement at any federal Class I areas as the basis for its BART determination. Modeling lesser options would not have changed this result. Similar analyses and similar results were attained for all the BART-subject units at this facility and at International Paper. EPA has reviewed ADEM's analyses and concluded they were conducted in a manner that is consistent with EPA's BART Guidelines and reflect a reasonable application of EPA's guidance to these sources. Emissions limits for these operations are contained in the State's title V permits for these facilities.

Comment 5: The Commenter disagrees with ADEM's methodology for identifying pollutants and sources subject to a reasonable progress analysis. The concerns identified by the Commenter include an ''incomplete identification of emissions units likely to have the largest impacts on visibility'' at federal Class I areas; improper reliance on CAIR to exempt out-of-state EGUs from conducting reasonable progress analyses; and a failure to identify and consider all proposed major new sources or major modifications to sources within and outside of the State.

Regarding in-state sources, the Commenter notes that ADEM's SO_2 area of influence (AOI) methodology captured only 55 percent of the total point source SO_2 contribution to visibility impairment in Sipsey and only 61–73 percent of the total contribution at federal Class I areas in neighboring states. The Commenter believes that, due to cumulative impacts, the reasonable progress analysis should have encompassed a greater number of units with SO_2 emissions that impact the State's Class I area and that Alabama's LTS should have further considered reducing NO_X and ammonia emissions.

For the out-of-state CAIR EGUs that impact Alabama's Class I area, the Commenter believes that ADEM must conduct reasonable progress control analyses in order to determine which emissions control measures would be needed at these EGUs to make reasonable progress toward improving visibility at Sipsey and reiterates statements made in its aforementioned February 28, 2012, comment letter regarding EPA's December 30, 2011, proposed rule.

Regarding proposed major new sources or major modifications new sources, the Commenter states that there is no evidence that Alabama's regional haze SIP submittal complies with the requirement in 40 CFR 51.306(d) that the LTS provides for review of the impacts from any new major stationary source or major modifications on visibility in any mandatory Class I area in accordance with 40 CFR 51.307, 51.166, 51.160 and any binding guidance insofar as these provisions pertain to protection of visibility. According to the Commenter, ADEM should have identified these sources and any increases in emissions resulting from installation and operation of new pollution controls (e.g., increased ammonia emissions from new SCRs and SNCRs) and considered them in a cumulative impact analysis for Sipsey.

Response 5: Concerning the State's AOI methodology for the identification of emission units for reasonable progress evaluation, as noted in EPA's Reasonable Progress Guidance[6] and discussed further in EPA's February 28, 2012, proposal action on the Alabama regional haze SIP submittal (77 FR 11949), the RHR gives states wide latitude to determine additional control requirements, and there are many ways

[5] EPA's BART Guidelines at 70 FR 39164.

[6] *Guidance for Setting Reasonable Progress Goals Under the Regional Haze Program,* July 1, 2007, memorandum from William L. Wehrum, Acting Assistant Administrator for Air and Radiation, to EPA Regional Administrators, EPA Regions 1–10 (''EPA's Reasonable Progress Guidance''), page 4–2.

to approach identifying additional reasonable measures as long as they consider the four statutory factors. Further, states have considerable flexibility in how to take these factors into consideration. EPA's Reasonable Progress Guidance recognizes that there are numerous ways to approach development of the LTS and to focus on those source categories that may have the greatest impact on visibility at Class 1 areas, considering the statutory factors at a minimum.[7] Significant control programs are being implemented nationally and across the southeast during the first implementation period, as described in chapter 7 of Alabama's regional haze SIP submittal. The impact of programs such as CAIR, CSAPR, and the NO_X SIP Call are being realized regionally, and the implementation of these programs in Alabama will significantly reduce emissions and improve visibility at Sipsey and at federal Class I areas outside Alabama.

Regarding its reliance on CAIR, the State took into account emissions reductions expected from CAIR to determine the 2018 reasonable progress goals (RPGs) for its Class I areas. This approach was fully consistent with EPA guidance at the time of SIP development. ADEM determined that no additional SO_2 controls beyond CAIR are reasonable for its EGUs in the first implementation period based on the State's review of the statutory factors (i.e., the costs of compliance, the time necessary for compliance, the energy and non-air quality environmental impacts of compliance, and the remaining useful life of any potentially affected sources) as evaluated by EPA for CAIR, and that CAIR is expected to reduce EGU SO_2 emissions by approximately 70 percent.

Regarding the consideration of new sources and major modifications, the Alabama regional haze SIP revisions subject to this rulemaking address the regional haze requirements of 40 CFR 51.308 whereas the regulation cited by the Commenter, 40 CFR 51.306(d), 40 CFR 51.307, 51.166, and 51.160, are specific to the new source review (NSR) requirements for RAVI. Furthermore, as identified in footnote 19 of EPA's the February 28, 2012, proposed rulemaking 77 FR 11955, Alabama has already addressed the NSR requirements for visibility (40 CFR 51.307) and RAVI LTS (40 CFR 51.306) in its SIP. New sources and major modifications are also explicitly part of the emissions inventory used to project future conditions.

[7] EPA's Reasonable Progress Guidance, pages 4–1, 4–2.

The projected inventories for 2009 and 2018 account for post-2002 emissions reductions from promulgated and proposed federal, state, local, and site-specific control programs and account for expected growth in emissions from new sources. For EGUs, the Integrated Planning Model was run to estimate emissions of the proposed and existing units in 2009 and 2018. These results were adjusted based on state and local air agencies' knowledge of planned emissions controls at specific EGUs. For non-EGUs, VISTAS used recently updated growth and control data consistent with the data used in EPA's CAIR analyses supplemented by state and local air agencies' data and updated forecasts from the U.S. Department of Energy. These updates are documented in the MACTEC emissions inventory report ''Documentation of the 2002 Base Year and 2009 and 2018 Projection Year Emission Inventories for VISTAS'' dated February 2007 (Appendix D of Alabama's regional haze SIP submittal). The technical information provided in the record demonstrates that the emissions inventory in the SIP adequately reflects projection 2018 conditions and that the LTS meets the requirements of the RHR and is approvable. EPA finds that these inventories provide a reasonable assessment of future emissions from North Carolina sources.

Comment 6: The Commenter believes that ADEM improperly exempted several sources from a reasonable progress evaluation for SO_2 even though the State determined that these sources were above its minimum threshold for performing such an analysis and reiterates statements made in its aforementioned February 28, 2012, comment letters regarding EPA's December 30, 2011, proposed rule. The Commenter disagrees with ADEM's decision to exempt EGUs subject to CAIR from conducting reasonable progress analyses. As for non-EGUs subject to BART, the Commenter accepts ADEM's conclusion that the BART determinations satisfy requirements under the RHR's reasonable progress provisions for International Paper and Solutia; however, the Commenter disagrees with Alabama's BART determinations for these units.

Response 6: See the response to Comment 5 regarding the State's determination that no additional SO_2 controls beyond CAIR are reasonable for its EGUs in the first implementation period. Regarding the BART determinations for non-EGUs, EPA has reviewed the ADEM analyses and concluded they were conducted in a manner that is consistent with EPA's BART Guidelines and reflect a reasonable application of EPA's guidance to these sources (see response to Comment 4).

Comment 7: According to the Commenter, the cost effectiveness analysis used to make the reasonable progress determination for the Cargill, Inc. facility (Cargill) was flawed, and therefore, EPA cannot approve Alabama's proposed SIP. The Commenter contends that the inputs used for the efficiency of the pollution controls analyzed and the costs attributed to those controls were improper.

Response 7: Cargill shut down operations of this facility in 2009 and sold the site to DeBruce Grain in August 2010. DeBruce Grain plans to operate a grain handling, shipping, and storage facility and is no longer expected to be a main contributor to regional haze.

Comment 8: The Commenter states that ADEM improperly estimated emissions reductions for 2018 and that Alabama's projection of future visibility conditions for 2018 is based on ''uncertain federal and state pollution control projects, including, in large part, on the emissions reductions anticipated from CAIR.'' The Commenter also believes that anticipated emissions reductions resulting from the other control programs considered by Alabama (e.g., Industrial Boiler MACT, the Atlanta/Birmingham/Northern Kentucky 1997 8-hour ozone nonattainment area SIP) are just as uncertain as those resulting under CAIR and the Transport Rule, and that Alabama ''need[s] to base its LTS on concrete, definite SO_2 emissions reductions.'' Because of the alleged uncertainty of the actual reductions predicted under the pollution control programs identified by the Commenter, the Commenter believes that additional SO_2 reductions are necessary at this time to ensure that Alabama's RPGs are met. The Commenter requests that, at a minimum, EPA should ensure that ADEM follows through on its commitment to re-evaluate its ability to meet its RPGs in the five-year progress review. While the Commenter acknowledges that the RPGs exceed the uniform rate of progress and are projected to be met, it contends that the State should ''go beyond the URP [uniform rate of progress] analysis in establishing RPGs and do everything it can to ensure visibility impacts to affected Class I areas are reduced.''

Response 8: The technical information provided in the record demonstrates that the emissions

inventory in the SIP adequately reflects projected 2018 conditions and should be approved. Alabama's 2018 projections are based on the State's technical analysis of the anticipated emissions rates and level of activity for EGUs, other point sources, nonpoint sources, on-road sources, and off-road sources based on their emissions in the 2002 base year, considering growth and additional emissions controls to be in place and federally enforceable by 2018. The emissions inventory used in the regional haze technical analyses that was developed by VISTAS with assistance from Alabama projected 2002 emissions (the latest region-wide inventory available at the time the submittal was being developed) and applied reductions expected from federal and state regulations affecting the emissions of volatile organic compounds and the visibility impairing pollutants NO_X, PM, and SO_2.

To minimize the differences between the 2018 projected emissions used in the Alabama regional haze submittal and what actually occurs in 2018, the RHR requires that the five-year review address any expected significant differences due to changed circumstances from the initial 2018 projected emissions, provide updated expectations regarding emissions for the implementation period, and evaluate the impact of these differences on RPGs. It is expected that individual projections within a statewide inventory will vary from actual emissions over a 16-year period. For example, some facilities shut down whereas others expand operations. Furthermore, economic projections and population changes used to estimate growth often differ from actual events; new rules are modified, changing their expected effectiveness; and methodologies to estimate emissions improve, modifying emissions estimates. The five-year review is a mechanism to assure that these expected differences from projected emissions are considered and their impact on the 2018 RPGs is evaluated. In the regional haze program, uncertainties associated with modeled emissions projections into the future are addressed through the requirement under the RHR to submit periodic progress reports in the form of a SIP revision. Specifically, 40 CFR 51.308(g) requires each state to submit a report every five years evaluating progress toward the RPGs for each mandatory Class I area located in the state and for each Class I area outside the state that may be affected by emissions from the state. Since this five-year progress re-evaluation is a mandatory requirement, it is unnecessary for EPA to take additional measures to ''ensure'' that the State meets its reporting obligation. In the specific instances of uncertainty of future reductions cited by the Commenter, the State's analysis of projected emissions and its reliance on these projections to establish its RPGs meets the requirements of the regional haze regulations and EPA guidance.

Regarding the need to go beyond the URP analysis when establishing RPGs, EPA affirmed in the RHR that the URP is not a ''presumptive target;'' rather, it is an analytical requirement for setting RPGs. *See* 64 FR 35731. In determining RPGs for Alabama's Class I area, the State identified sources through its AOI methodology for reasonable progress control evaluation and described those evaluations in its SIP. Thus, the State went beyond the URP to identify and evaluate sources for potential control under reasonable progress in accordance with EPA regulations and guidance.

Comment 9: The Commenter contends that Alabama's regional haze SIP must require revisions to address RAVI within three years of a Federal Land Manager (FLM) certifying visibility impairment and that the State's commitment to address RAVI, should a FLM certify visibility impairment, is not enough.

Response 9: The SIP revisions do not address RAVI requirements since this was the subject of previous rulemakings. EPA's visibility regulations direct states to coordinate their RAVI LTS provisions with those for regional haze and the RAVI portion of a SIP must address any integral vistas identified by the FLMs. However, as stated in the February 28, 2012, proposed rulemaking, the FLMs have not identified any integral vistas in Alabama, the Class I area in Alabama is not experiencing RAVI, and no Alabama sources are affected by the RAVI provisions. Thus, the July 15, 2008, Alabama regional haze SIP revision did not explicitly address the coordination of the regional haze with the RAVI LTS although Alabama made a commitment to address RAVI should the FLM certify visibility impairment from an individual source. EPA finds that Alabama's regional haze SIP appropriately supplements and augments the State's RAVI visibility provisions to address regional haze by updating the LTS provisions as Alabama has done. The commitments in Alabama's SIP are consistent with the regulatory requirements for this provision.

Comment 10a: The Commenter claims that Alabama's regional haze SIP does not explain how monitoring data and other information is used to determine the contribution of emissions from within the State to regional haze visibility impairment at Class I areas within and outside Alabama. Therefore, the Commenter believes that EPA must disapprove Alabama's regional haze SIP.

Comment 10b: The Commenter states that the SIP must clearly state the method by which the State intends to report visibility monitoring to the EPA. Additionally, the Commenter states that if Alabama plans to rely on the referenced Visibility Information Exchange Web System (VIEWS) Web site for reporting, the SIP must clearly state that Alabama intends to use the Web site as its way of reporting visibility monitoring data. ''If Alabama intends to use another method of reporting visibility, the proposal needs to explain that. If Alabama intends to use VIEWS for reporting, it is not sufficient for Alabama to 'encourage' VISTAS to maintain the Web site.'' The Commenter also states that the Alabama SIP needs to have an enforceable mechanism to transmit the Interagency Monitoring of Protected Visual Environments (IMPROVE) data to EPA as well as an enforceable mechanism to ensure that the IMPROVE data is continually gathered. The ''SIP must include an enforceable requirement that the data is gathered by Alabama unless it is gathered by other entities such as VISTAS and the National Park Service.'' The Commenter concludes by stating that ''[b]ecause such an enforceable requirement is missing, EPA must disapprove the SIP submittal in this regard.''

Responses 10a, 10b: As noted by the Commenter, the primary monitoring network for regional haze in Alabama is the IMPROVE network, and there is currently one IMPROVE site in Alabama, within the Bankhead National Forest and managed by the FLM, which serves as the monitoring site for Sipsey. IMPROVE monitoring data from 2000–2004 serves as the baseline for the regional haze program, and is relied upon in the Alabama regional haze submittal and in providing annual visibility data to EPA. Monitoring data is different from emissions data or analyses conducted to attribute contribution. These analyses are part of the ten-year implementation period updates conducted by the states.

In its SIP revision, Alabama states its intention to rely on the IMPROVE network for complying with the regional haze monitoring requirement in EPA's RHR for the current and future regional haze implementation periods. Data produced by the IMPROVE monitoring network will be used nearly continuously for preparing the five-year

progress reports and the 10-year SIP revisions, each of which relies on analysis of the preceding five years of data. The VIEWS Web site has been maintained by VISTAS and the other regional planning organizations (RPOs) to provide ready access to the IMPROVE data and data analysis tools. Alabama is encouraging VISTAS and the other RPOs to maintain VIEWS or a similar data management system to facilitate analysis of the IMPROVE data. Alabama cannot legally bind federal and state legislatures to continue to fund the monitoring program for regional haze. Alabama's SIP adequately addresses this provision and explains how monitoring data and other information has been and will be used to determine the contribution of emissions from within the State to regional haze visibility impairment at federal Class I areas.

Comment 11: The Commenter believes that EPA should fully approve the State's implementation plan as it applies to regional haze since it is likely that either CAIR or the Transport Rule will be in effect in the future.

Response 11: Today, EPA is finalizing action on a limited approval of Alabama's regional haze SIP that results in an approval of the entire regional haze submission and all of its elements, preserving the visibility benefits offered by the SIP. EPA has the authority to issue a limited approval and believes that it is appropriate and necessary to promulgate a limited approval of Alabama's regional haze SIP. On December 30, 2011, EPA proposed a limited disapproval for Alabama's regional haze SIP and explained that EPA cannot fully approve regional haze SIP revisions that rely on CAIR for emissions reduction measures for the reasons discussed in that action. Comments on the disapproval are therefore beyond the scope of this rulemaking. EPA finalized the limited disapproval of Alabama's regional haze SIP in a final action published June 7, 2012 (77 FR 33642).

Comment 12: The Commenter expressed concern with EPA's proposed approach of adopting FIPs at the time of disapproval to replace reliance on CAIR in the regional haze SIPs with reliance on the Transport Rule. The Commenter believes that states should be given every opportunity provided by the Act to make revisions to correct SIP deficiencies before EPA acts by imposing a FIP.

Response 12: As discussed in the response to Comment 11, today's action addresses the limited approval, and EPA finalized a limited disapproval in a separate action published on June 7, 2012. In that same action, EPA did not finalize a FIP for Alabama. EPA's response to comments on the final disapproval can be found in Docket ID No. EPA–HQ–OAR–2011–0729 at *www.regulations.gov*.

III. What is the effect of this final action?

Under CAA sections 301(a) and 110(k)(6) and EPA's long-standing guidance, a limited approval results in approval of the entire SIP revision, even of those parts that are deficient and prevent EPA from granting a full approval of the SIP revision. Today, EPA is finalizing a limited approval of Alabama's July 15, 2008, regional haze SIP revision. This limited approval results in approval of Alabama's entire regional haze submission and all its elements. EPA is taking this approach because Alabama's SIP will be stronger and more protective of the environment with the implementation of those measures by the State and having federal approval and enforceability than it would without those measures being included in its SIP.

IV. Final Action

EPA is finalizing a limited approval of a revision to the Alabama SIP submitted by the State of Alabama on July 15, 2008, as meeting some of the applicable regional haze requirements as set forth in sections 169A and 169B of the CAA and in 40 CFR 51.300–308. Also in this action, EPA is rescinding the federal regulations in 40 CFR 52.61 that were approved into the Alabama SIP on November 24, 1987, and approving the provisions in Alabama's July 15, 2008, SIP submittal to meet the monitoring and LTS requirements for RAVI at 40 CFR 51.306.

V. Statutory and Executive Order Reviews

A. Executive Order 12866, Regulatory Planning and Review

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 12866, entitled ''Regulatory Planning and Review.''

B. Paperwork Reduction Act

Under the Paperwork Reduction Act, 44 U.S.C. 3501 et seq., OMB must approve all ''collections of information'' by EPA. The Act defines ''collection of information'' as a requirement for answers to ''* * * identical reporting or recordkeeping requirements imposed on ten or more persons * * *''. 44 U.S.C. 3502(3)(A). The Paperwork Reduction Act does not apply to this action.

C. Regulatory Flexibility Act (RFA)

The RFA generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This rule will not have a significant impact on a substantial number of small entities because SIP approvals under section 110 and subchapter I, part D of the CAA do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because the federal SIP approval does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities.

Moreover, due to the nature of the federal-state relationship under the CAA, preparation of flexibility analysis would constitute federal inquiry into the economic reasonableness of state action. The CAA forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.,* v. *EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

D. Unfunded Mandates Reform Act (UMRA)

Under sections 202 of the UMRA of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a federal mandate that may result in estimated costs to state, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that today's action does not include a federal mandate that may result in estimated costs of $100 million or more to either state, local, or tribal governments in the aggregate, or to the private sector. This federal action approves pre-existing requirements under state or local law, and imposes no new requirements. Accordingly, no additional costs to

state, local, or tribal governments, or to the private sector, result from this action.

E. Executive Order 13132, Federalism

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have Federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, EPA may not issue a regulation that has Federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the federal government provides the funds necessary to pay the direct compliance costs incurred by state and local governments, or EPA consults with state and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has Federalism implications and that preempts state law unless the Agency consults with state and local officials early in the process of developing the proposed regulation.

This rule will not have substantial direct effects on the states, on the relationship between the national government and the states, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely approves a state rule implementing a federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

F. Executive Order 13175, Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This rule does not have tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments. Thus, Executive Order 13175 does not apply to this rule.

G. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

Protection of Children from Environmental Health Risks and Safety Risks (62 FR 19885, April 23, 1997), applies to any rule that: (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This rule is not subject to Executive Order 13045 because it does not involve decisions intended to mitigate environmental health or safety risks.

H. Executive Order 13211, Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act (NTTAA)

Section 12 of the NTTAA of 1995 requires federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

J. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2).

K. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by August 27, 2012. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. *See* section 307(b)(2).

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Nitrogen dioxide, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides, Volatile organic compounds.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: June 14, 2012.

A. Stanley Meiburg,

Acting Regional Administrator, Region 4.

40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

■ 1. The authority citation for part 52 continues to read as follows:

Authority: 42 U.S.C. 7401 *et seq.*

Subpart B—Alabama

■ 2. Section 52.50 (e) is amended by adding a new entry for ''Regional Haze Plan'' at the end of the table to read as follows:

§ 52.50 Identification of plan.

* * * * *

(e) * * *

EPA APPROVED ALABAMA NON-REGULATORY PROVISIONS

Name of nonregulatory SIP provision	Applicable geographic or nonattainment area	State submittal date/effective date	EPA approval date	Explanation
* *	*	*	*	* *
Regional haze plan	Statewide	7/15/2008	6/28/2012	[Insert citation of publication].

■ 3. Section 52.61 is amended by removing and reserving paragraph (a) to read as follows:

§ 52.61 Visibility protection.

(a) [Reserved]

* * * * *

[FR Doc. 2012–15475 Filed 6–27–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 141

[EPA–HQ–OW–2012–0288; FRL–9693–4]

Expedited Approval of Alternative Test Procedures for the Analysis of Contaminants Under the Safe Drinking Water Act; Analysis and Sampling Procedures

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: This action announces the U.S. Environmental Protection Agency's (EPA's) approval of alternative testing methods for use in measuring the levels of contaminants in drinking water and determining compliance with national primary drinking water regulations. The Safe Drinking Water Act (SDWA) authorizes EPA to approve the use of alternative testing methods through publication in the **Federal Register**. EPA is using this streamlined authority to make 10 additional methods available for analyzing drinking water samples required by regulation. This expedited approach provides public water systems, laboratories, and primacy agencies with more timely access to new measurement techniques and greater flexibility in the selection of analytical methods, thereby reducing monitoring costs while maintaining public health protection.

DATES: This action is effective June 28, 2012.

FOR FURTHER INFORMATION CONTACT: Safe Drinking Water Hotline (800) 426–4791 or Glynda Smith, Technical Support Center, Standards and Risk Management Division, Office of Ground Water and Drinking Water (MS 140), Environmental Protection Agency, 26 West Martin Luther King Drive, Cincinnati, OH 45268; telephone number: (513) 569–7652; email address: *smith.glynda@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does this action apply to me?

Public water systems are the regulated entities required to measure contaminants in drinking water samples. In addition, EPA Regions as well as States and Tribal governments with authority to administer the regulatory program for public water systems under SDWA may also measure contaminants in water samples. When EPA sets a monitoring requirement in its national primary drinking water regulations for a given contaminant, the Agency also establishes in the regulations standardized test procedures for analysis of the contaminant. This action makes alternative testing methods available for particular drinking water contaminants beyond the testing methods currently established in the regulations. EPA is providing public water systems required to test water samples with a choice of using either a test procedure already established in the existing regulations or an alternative test procedure that has been approved in this action or in prior expedited approval actions. Categories and entities that may ultimately be affected by this action include:

Category	Examples of potentially regulated entities	NAICS [1]
State, Local, & Tribal Governments.	States, local and Tribal governments that analyze water samples on behalf of public water systems required to conduct such analysis; States, local and Tribal governments that themselves operate community and non-transient non-community water systems required to monitor.	924110
Industry	Private operators of community and non-transient non-community water systems required to monitor.	221310
Municipalities	Municipal operators of community and non-transient non-community water systems required to monitor.	924110

[1] North American Industry Classification System.

This table is not exhaustive, but rather provides a guide for readers regarding entities likely to be affected by this action. This table lists the types of entities that EPA is now aware could potentially be affected by this action. Other types of entities not listed in the table could also be impacted. To determine whether your facility is affected by this action, you should carefully examine the applicability language in the *Code of Federal Regulations* (CFR) at 40 CFR 141.2 (definition of public water system). If you have questions regarding the applicability of this action to a particular entity, consult the person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

B. How can I get copies of this document and other related information?

Docket. EPA established a docket for this action under Docket ID No. EPA–HQ–OW–2012–0288. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Water Docket in the EPA Docket Center, (EPA/DC) EPA West, Room 3334, 1301 Constitution Ave. NW.,

Washington, DC. Copyrighted materials are available only in hard copy. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Water Docket is (202) 566–2426.

Abbreviations and Acronyms Used in This Action

ANOVA: Analysis of Variance
APHA: American Public Health Association
CAS: Chemical Abstracts Service
CFR: *Code of Federal Regulations*
DIC: Differential Interference Contrast
EDTA: Ethylenediaminetetraacetic Acid
EPA: Environmental Protection Agency
FA: Fluorescence Assay
GC/MS: Gas Chromatography/Mass Spectrometry
HCCPD: Hexachlorocyclopentadiene
IMS: Immunomagnetic Separation
LC–MS/MS: Liquid Chromatography Tandem Mass Spectrometry
MCL: Maximum Contaminant Level
NaHMP: Sodium Hexametaphosphate
NAICS: North American Industry Classification System
NEMI: National Environmental Methods Index
PCB: Polychlorinated Biphenyl
QC: Quality Control
SDWA: Safe Drinking Water Act
VCSB: Voluntary Consensus Standard Bodies

II. Background

A. What is the purpose of this action?

In this action, EPA is approving 10 analytical methods for determining contaminant concentrations in samples collected under SDWA. Regulated parties required to sample and monitor may use either the testing methods already established in existing regulations or the alternative testing methods being approved in this action or in prior expedited approval actions. The new methods are listed along with other previously expedited methods in Appendix A to Subpart C of Part 141 and on EPA's drinking water methods Web site at *http://water.epa.gov/scitech/drinkingwater/labcert/analyticalmethods_expedited.cfm.*

B. What is the basis for this action?

When EPA determines that an alternative analytical method is ''equally effective'' (i.e., as effective as a method that has already been promulgated in the regulations), SDWA allows EPA to approve the use of the alternative method through publication in the **Federal Register**. (See Section 1401(1) of SDWA.) EPA is using this streamlined approval authority to make 10 additional methods available for determining contaminant concentrations in samples collected under the SDWA. EPA has determined that, for each contaminant or group of contaminants listed in Section III, the additional testing methods being approved in this action are as effective as one or more of the testing methods already approved in the regulations for those contaminants. Section 1401(1) of SDWA states that the newly approved methods ''shall be treated as an alternative for public water systems to the quality control and testing procedures listed in the regulation.'' Accordingly, this action makes these additional 10 analytical methods legally available as options for meeting EPA's monitoring requirements.

This action does not add regulatory language, but does, for informational purposes, update an appendix to the regulations at 40 CFR Part 141 that lists all methods approved under Section 1401(1) of SDWA. Accordingly, while this action is not a rule, it is updating CFR text and therefore is being published in the ''Final Rules'' section of the **Federal Register**.

III. Summary of Approvals

EPA is approving 10 methods that are equally effective relative to methods previously promulgated in the regulations. By means of this notice, these 10 methods are added to Appendix A to Subpart C of 40 CFR Part 141.

A. Methods Developed by EPA

1. EPA Method 536 (USEPA 2007) is a direct injection liquid chromatography tandem mass spectrometry (LC–MS/MS) method for the determination of atrazine and simazine, which are regulated in drinking water as specified at 40 CFR 141.61(c). The analytes are separated and identified by comparing the retention times and acquired mass spectra to the retention times and reference spectra for calibration standards acquired under identical LC–MS/MS conditions. The concentration of each analyte is determined by internal standard calibration using procedural standards. EPA Method 536 simplifies sample preparation because it does not require labor- intensive clean-up or pre-concentration using solid phase extraction. It also provides laboratories with the opportunity to use liquid chromatography for the analytical separation instead of gas chromatography, which is used in the approved methods for the determination of atrazine and simazine.

The currently approved methods for monitoring atrazine and simazine in drinking water are listed at 40 CFR 141.24(e)(1). EPA Method 525.2, Revision 2.0 (USEPA 1995) is the only approved method that employs mass spectrometry for detection of atrazine and simazine. Therefore, the method performance characteristics of EPA Method 536 were compared to the characteristics of EPA Method 525.2, Revision 2.0 for both atrazine and simazine. EPA has found that EPA Method 536 is equally effective for measuring atrazine and simazine concentrations in drinking water, relative to the approved method. The basis for this determination is discussed in Smith and Wendelken (2012a). Therefore, EPA is approving EPA Method 536 for determining atrazine and simazine in drinking water.

A copy of EPA Method 536 can be accessed and downloaded directly on-line at *http://water.epa.gov/drink.*

2. EPA Method 523 (USEPA 2011) is a gas chromatography mass spectrometry (GC/MS) method for the determination of atrazine and simazine, which are regulated in drinking water as specified at 40 CFR 141.61(c). The method analytes are extracted and concentrated from the water sample using solid phase extraction. Extracts are injected onto a capillary GC column and analyzed with a mass spectrometer. The method analytes are identified by comparing retention times and the acquired mass spectra to retention times and reference spectra for calibration standards acquired under identical GC/MS conditions. The concentration of each analyte is determined using the internal standard technique.

As discussed with EPA Method 536, EPA Method 523 can be used for the determination of atrazine and simazine in finished drinking water. EPA Method 523 and the approved EPA Method 525.2, Revision 2.0 (USEPA 1995) are both GC/MS methods; however, one of the advantages that EPA Method 523 offers relative to the approved method is the use of solid reagents, ammonium acetate and 2-chloroacetamide, for sample preservation instead of hydrochloric acid. This allows sample bottles to be prepared in the laboratory prior to shipment to the field, thus eliminating the need to ship a hazardous liquid acid. The method performance characteristics of EPA Method 523 were compared to the characteristics of the approved EPA Method 525.2, Revision 2.0 for atrazine and simazine. EPA has found that EPA Method 523 is equally effective for measuring atrazine and simazine concentrations, relative to the approved method. The basis for this determination is discussed in Smith and Wendelken (2012a). Therefore, EPA is approving EPA Method 523 for

determining atrazine and simazine in drinking water.

A copy of EPA Method 523 can be accessed and downloaded directly on-line at *http://water.epa.gov/drink.*

3. EPA Method 525.3 (USEPA 2012) is a GC/MS method for the determination of semivolatile organic compounds in finished drinking water. The method analytes are extracted and concentrated from the water sample using solid phase extraction. Extracts are injected onto a capillary GC column and analyzed using mass spectrometry. The analytes are identified by comparing retention times and the acquired mass spectra to retention times and reference spectra for calibration standards acquired under identical GC/MS conditions. The concentration of each analyte is determined using the internal standard technique.

EPA Method 525.3 is a revision of EPA Method 525.2, Revision 2.0 (USEPA 1995) which is currently approved at 40 CFR 141.24(e)(1) for analysis of drinking water compliance samples for 17 semivolatile organic contaminants: Alachlor, atrazine, polychlorinated biphenyls (PCBs), benzo[a]pyrene, chlordane, di(2-ethylhexyl) adipate, di(2-ethylhexyl) phthalate, endrin, lindane (HCH-γ), heptachlor, heptachlor epoxide, hexachlorobenzene, hexachlorocyclopentadiene (HCCPD), methoxychlor, pentachlorophenol, simazine, and toxaphene. It should be noted that for PCBs, the approved method can only be used as a screen; compliance with the PCB maximum contaminant level (MCL) is based on quantitative analysis using EPA Method 508A (USEPA 1989) as specified at 40 CFR 141.24(h)(13)(iii). Likewise, EPA Method 525.3 can only be used for PCBs as a screen. Some of the advantages afforded by the revised method include:

- Use of solid preservation reagents (ascorbic acid, ethylenediaminetetraacetic acid (EDTA), and potassium dihydrogen citrate), which eliminates the requirement to ship liquid hydrochloric acid to the field;
- Incorporation of flexibility that allows analysts to take advantage of multiple types of solid phase extraction media and GC/MS instrumentation options to improve method sensitivity and data quality; and
- Improved guidance for handling the data reduction associated with multi-component contaminants such as toxaphene, chlordane, and PCBs.

The method performance characteristics of EPA Method 525.3 were compared to the characteristics of the approved EPA Method 525.2, Revision 2.0 for each of the 17 regulated semivolatile organic contaminants. EPA has determined that EPA Method 525.3 is equally effective for measuring each of these 17 contaminants relative to the approved method. The basis for this determination is discussed in Munch, Grimmett and Smith (2012). EPA is therefore approving the use of Method 525.3 for the above named 17 contaminants when analyzing drinking water compliance samples.

A copy of EPA Method 525.3 can be accessed and downloaded directly on-line at *http://www.epa.gov/nerlcwww/ordmeth.htm.*

4. EPA Method 1623.1 (USEPA 2012) is a microbiological method for the detection of the water-borne parasite, *Cryptosporidium* (CAS Registry Number 137259–50–8), in drinking water treatment plant source waters by concentration, immunomagnetic separation (IMS), and immunofluorescence assay microscopy. *Cryptosporidium* is characterized using 4′,6-diamidino-2-phenylindole staining and differential interference contrast (DIC) microscopy. *Cryptosporidium* concentrations are reported as oocysts/L.

EPA Method 1623.1 is a revision of EPA Method 1623 (USEPA 2005), which is approved at 40 CFR 141.704(a) for the detection of *Cryptosporidium* in water. The primary change in EPA Method 1623.1 relative to the approved method is the addition of sodium hexametaphosphate (NaHMP) after filtration of the water sample. Miller (2012a) describes two EPA studies that showed improved accuracy and precision for detecting the concentration of *Cryptosporidium* oocysts in water when NaHMP was added: (1) A single laboratory side-by-side analysis that compared samples from nine public water system sources processed by both EPA Method 1623 and EPA Method 1623.1, and showed an average *Cryptosporidium* recovery improvement of 18 percentage points ($p = 0.0001$); and (2) a multi-laboratory side-by-side analysis that resulted in an average *Cryptosporidium* recovery improvement of 15 percentage points with the addition of NaHMP for the three source waters that were tested ($p = 0.0197$). The more significant improvement in *Cryptosporidium* recovery during the side-by-side studies was particularly associated with samples that had low initial recovery using Method 1623.

Miller (2012b) contains the study report that details the validation of EPA Method 1623.1. Fourteen laboratories demonstrated a mean *Cryptosporidium* recovery from source water of 61% with an average within-laboratory relative standard deviation of 13%. The precision and recovery for EPA Method 1623.1 were compared to the precision and recovery observed in the validation study for the approved EPA Method 1623. The *Cryptosporidium* reagent water and source water mean percent recoveries for EPA Method 1623.1 are at least 20 percentage points higher than the recoveries cited in the validation study for EPA Method 1623. In addition, the mean relative standard deviation for *Cryptosporidium* measurements was lower in both matrices for the revised EPA Method 1623.1 demonstrating improved precision.

The data from the EPA Method 1623.1 validation studies were used to develop new quality control (QC) criteria for laboratory performance. For each QC criterion, the distribution of recovery was estimated using random effects analysis of variance (ANOVA). The recovery limits were estimated at the 5th percentile of the predictive distribution for each criterion. The lower limit for acceptable recovery of *Cryptosporidium* detected in reagent and source water increased by 22 and 19 percentage points, respectively, over EPA Method 1623 criteria. Thus, laboratories performing EPA Method 1623.1 should have more accurate detection and will be meeting more stringent QC criteria than laboratories following Method 1623.

Based on the validation results, EPA has determined that EPA Method 1623.1 is equally effective for detecting *Cryptosporidium* oocysts, relative to the approved method. Therefore, EPA is approving EPA Method 1623.1 for detecting *Cryptosporidium* in drinking water source waters. A copy of EPA Method 1623.1 can be accessed and downloaded directly on-line at *http://water.epa.gov/drink.*

B. Methods Developed by Voluntary Consensus Standard Bodies (VCSB)

1. Standard Methods for the Examination of Water and Wastewater (Standard Methods). EPA compared the most recent versions of two Standard Methods to earlier versions of those methods that are currently approved in 40 CFR Part 141. Changes between the earlier approved version and the most recent version of each method are summarized in Smith (2012). The revisions primarily involve editorial changes (e.g., corrections of errors, procedural clarifications, and reorganization of text). The revised methods are the same as the earlier approved versions with respect to the chemistry, sample handling protocols, and method performance data. The new

versions are thus equally effective relative to those that are currently approved in the regulations. Therefore, EPA is approving the use of the two updated Standard Methods for the contaminants and their respective regulations listed in the following table:

Standard method revised version	Approved method	Contaminant	Regulation
3125, 21st edition (APHA 2005)	3125, 20th edition (APHA 1998)	Uranium	40 CFR 141.25(a)
3112 B–09, on-line version (APHA 2009)	3112 B–99, on-line version (APHA 1999)	Mercury	40 CFR 141.23(k)(1)

The 21st edition can be obtained from the American Public Health Association (APHA), 800 I Street NW., Washington, DC 20001–3710. Online versions of Standard Methods are available at *http://www.standardmethods.org.*

2. ASTM International. EPA compared the most recent versions of three ASTM International methods (ASTM Methods D859–10, D1179–10 B, and D5673–10) to the earlier versions of those methods that are currently approved in 40 CFR part 141. Changes between the earlier approved version and the most recent version of each method are summarized in Smith (2012). The revisions primarily involve editorial changes (e.g., updated references, definitions, terminology, and reorganization of text). The revised methods are the same as the approved versions with respect to sample collection and handling protocols, sample preparation, analytical methodology, and method performance data, and thus, are equally effective relative to the approved methods.

An additional ASTM Method, D6239–09, was submitted for evaluation as an alternate test method to EPA Method 908.0 (USEPA 1980) for the analysis of uranium in drinking water. ASTM Method D6329–09 involves the analysis of uranium in drinking water by alpha scintillation with pulse shape discrimination. This technique offers high alpha counting efficiency since the electronic pulse shape discrimination reduces background counts associated with beta-gamma interference. ASTM Method D6239–09 incorporates selective solvent extraction to separate and concentrate uranium from drinking water samples for subsequent alpha liquid scintillation counting. With pulse shape discrimination, the method provides sufficient resolution to yield limited isotopic activity levels for uranium-238 and uranium-234 as well as total uranium activity. EPA Method 908.0, which relies on co-precipitation of uranium with iron hydroxide followed by ion exchange separation to isolate uranium, is not capable of distinguishing among the uranium radioisotopes. The approved methods for uranium are listed at 40 CFR 141.25(a). The performance characteristics of ASTM Method D6239–09 were compared to the performance characteristics of the approved method, EPA Method 908.0. Smith and Wendelken (2012b) summarizes the research and validation data associated with development of ASTM Method D6239–09. EPA has determined that ASTM Method D6239–09 is equally effective, relative to EPA Method 908.0, for the determination of total uranium activity in drinking water.

EPA is thus approving the use of the following ASTM methods for the contaminants and their respective regulations listed in the following table:

ASTM Revised version	Approved method	Contaminant	Regulation
D859–10 (ASTM 2010a)	D859–00 (ASTM 2000)	Silica	40 CFR 141.23(k)(1)
D1179–10 B (ASTM 2010b)	D1179–99 B (ASTM 1999)	Fluoride	40 CFR 141.23(k)(1)
D5673–10 (ASTM 2010c)	D5673–03 (ASTM 2003)	Uranium	40 CFR 141.25(a)
D6239–09 (ASTM 2009)	EPA Method 908.0	Uranium	40 CFR 141.25(a)

The ASTM methods are available from ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959 or *http://www.astm.org.*

IV. Statutory and Executive Order Reviews

As noted in Section II, under the terms of SDWA Section 1401(1), this streamlined method approval action is not a rule. Accordingly, the Congressional Review Act, 5 U.S.C. 801 et seq., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, does not apply because this action is not a rule for purposes of 5 U.S.C. 804(3). Similarly, this action is not subject to the Regulatory Flexibility Act because it is not subject to notice and comment requirements under the Administrative Procedure Act or any other statute. In addition, because this approval action is not a rule, but simply makes alternative testing methods available as options for monitoring under SDWA, EPA has concluded that other statutes and executive orders generally applicable to rulemaking do not apply to this approval action.

V. References

American Public Health Association (APHA). 1998. *20th Edition of Standard Methods for the Examination of Water and Wastewater,* American Public Health Association, 800 I Street NW., Washington, DC 20001–3710.

American Public Health Association (APHA). 1999. Standard Method 3112 B–99. Metals by Cold-Vapor Atomic Absorption Spectrometry. Approved by Standard Methods Committee 1999. Standard Methods Online. (Available at *http://www.standardmethods.org.*)

American Public Health Association (APHA). 2005. *21st Edition of Standard Methods for the Examination of Water and Wastewater,* American Public Health Association, 800 I Street NW., Washington, DC 20001–3710.

American Public Health Association (APHA). 2009. Standard Method 3112 B–09. Metals by Cold-Vapor Atomic Absorption Spectrometry. Approved by Standard Methods Committee 2009. Standard Methods Online. (Available at *http://www.standardmethods.org.*)

ASTM International. 1999. ASTM D1179–99 B. Standard Test Methods for Fluoride Ion in Water. ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959. (Available at *http://www.astm.org.*)

ASTM International. 2000. ASTM D859–00. Standard Test Method for Silica in Water. ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959. (Available at *http://www.astm.org.*)

ASTM International. 2003. ASTM D5673–03. Standard Test Method for Elements in Water by Inductively Coupled Plasma-Mass Spectrometry. ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959. (Available at *http://www.astm.org.*)

ASTM International. 2009. ASTM D6239–09. Standard Test Method for Uranium in Drinking Water by High-Resolution Alpha-Liquid-Scintillation Spectrometry.

ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959. (Available at *http://www.astm.org.*)
ASTM International. 2010a. ASTM D859–10. Standard Test Method for Silica in Water. ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959. (Available at *http://www.astm.org.*)
ASTM International. 2010b. ASTM D1179–10 B. Standard Test Methods for Fluoride Ion in Water. ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959. (Available at *http://www.astm.org.*)
ASTM International. 2010c. ASTM D5673–10. Standard Test Method for Elements in Water by Inductively Coupled Plasma-Mass Spectrometry. ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959. (Available at *http://www.astm.org.*)
Miller, C. 2012a. Memo to the record describing basis for expedited approval of EPA Method 1623.1. January 20, 2012.
Miller, C. 2012b. Method 1623.1 validation study report, ''Results of the Inter-laboratory Method Validation Study using U.S. Environmental Protection Agency Method 1623.1: *Cryptosporidium* and *Giardia* in Water by Filtration/IMS/FA,'' EPA 816–R–12–002, February 2012.
Munch, J., Grimmett, P., and Smith, G. 2012. Memo to the record describing basis for expedited approval of EPA Method 525.3. January 23, 2012.
Smith, G. 2012. Memo to the record describing basis for expedited approval of updated methods from Standard Methods and ASTM International. January 19, 2012.
Smith, G. and Wendelken, S. 2012a. Memo to the record describing basis for expedited approval of EPA Methods 523 and 536. January 20, 2012.
Smith, G. and Wendelken, S. 2012b. Memo to the record describing ATP evaluation of ASTM Method D6239–09 and basis for expedited approval. January 20, 2012.
USEPA. 1980. EPA Method 908.0, ''Uranium in Drinking Water—Radiochemical Method 908.0'' in Prescribed Procedures for the Measurement of Radioactivity in Drinking Water, EPA 600/4–80–032, August 1980. (Available at the U.S. Department of Commerce, National Technical Information Service (NTIS), 5301 Shawnee Road, Alexandria, VA 22312 (703–605–6040). PB 80–224744. *http://www.ntis.gov.*)
USEPA. 1989. EPA Method 508A, Revision 1.0, ''Screening for Polychlorinated Biphenyls by Perchlorination and Gas Chromatography'' in Methods for the Determination of Organic Compounds in Drinking Water, EPA/600/4–88–039, December 1988 (Revised July 1991). (Available at *https://www.nemi.gov.*)
USEPA. 1995. EPA Method 525.2, Revision 2.0, ''Determination of Organic Compounds in Drinking Water by Liquid-Solid Extraction and Capillary Column Gas Chromatography/Mass Spectrometry'' in Methods for the Determination of Organic Compounds in Drinking Water, Supplement III, EPA/600/R–95–131, August 1995. (Available at *https://www.nemi.gov.*)
USEPA. 2005. EPA Method 1623, ''*Cryptosporidium* and *Giardia* in Water by Filtration/IMS/FA,'' EPA–815–R–05–002. December 2005. (Available at *http://www.epa.gov/nerlcwww/online.html.*)
USEPA. 2007. EPA Method 536, ''Determination of Triazine Pesticides and their Degradates in Drinking Water by Liquid Chromatography Electrospray Ionization Tandem Mass Spectrometry (LC/ESI–MS/MS),'' EPA–815–B–07–002. October 2007. (Available at *http://water.epa.gov/drink.*)
USEPA. 2011. EPA Method 523, ''Determination of Triazine Pesticides and their Degradates in Drinking Water by Gas Chromatography/Mass Spectrometry (GC/MS),'' EPA–815–R–11–002. February 2011. (Available at *http://water.epa.gov/drink.*)
USEPA. 2012. EPA Method 525.3, ''Determination of Semivolatile Organic Chemicals in Drinking Water by Solid Phase Extraction and Capillary Column Gas Chromatography/Mass Spectrometry (GC/MS),'' EPA/600/R–12/010. February 2012. (Available at *http://www.epa.gov/nerlcwww/ordmeth.htm.*)
USEPA. 2012. EPA Method 1623.1. ''*Cryptosporidium* and *Giardia* in Water by Filtration/IMS/FA,'' EPA–816–R–12–001. January 2012. (Available at *http://water.epa.gov/drink.*)

List of Subjects in 40 CFR Part 141

Environmental protection, Chemicals, Indians—lands, Intergovernmental relations, Radiation protection, Reporting and recordkeeping requirements, Water supply.

Dated: June 21, 2012.

Pamela S. Barr,

Acting Director, Office of Ground Water and Drinking Water.

For the reasons stated in the preamble, 40 CFR Part 141 is amended as follows:

PART 141—NATIONAL PRIMARY DRINKING WATER REGULATIONS

■ 1. The authority citation for Part 141 continues to read as follows:

Authority: 42 U.S.C. 300f, 300g–1, 300j–4, and 300j–9.

■ 2. Appendix A to Subpart C of Part 141 is amended as follows:

■ a. By revising entries for ''Fluoride,'' ''Mercury,'' and ''Silica'' in the table entitled ''Alternative testing methods for contaminants listed at 40 CFR 141.23(k)(1).''

■ b. By adding entries for ''Alachlor,'' ''Atrazine,'' and ''Benzo(a)pyrene'' after the entry for ''2,4,5–TP (Silvex)'' in the table entitled ''Alternative testing methods for contaminants listed at 40 CFR 141.24(e)(1)''

■ c. By adding the entry for ''Chlordane'' after the entry for ''Carbofuran'' in the table entitled ''Alternative testing methods for contaminants listed at 40 CFR 141.24(e)(1).''

■ d. By adding entries for ''Di(2-ethylhexyl)adipate'' and ''Di(2-ethylhexyl)phthalate'' after the entry for ''Dalapon'' in the table entitled ''Alternative testing methods for contaminants listed at 40 CFR 141.24(e)(1).''

■ e. By adding the entry for ''Endrin'' after the entry for ''Dinoseb'' in the table entitled ''Alternative testing methods for contaminants listed at 40 CFR 141.24(e)(1).''

■ f. By adding entries for ''Heptachlor,'' ''Heptachlor Epoxide,'' ''Hexachlorobenzene,'' ''Hexachlorocyclopentadiene,'' ''Lindane,'' and ''Methoxychlor'' after the entry for ''Glyphosate'' in the table entitled ''Alternative testing methods for contaminants listed at 40 CFR 141.24(e)(1).''

■ g. By adding the entry for ''PCBs (as Aroclors)'' after the entry for ''Oxamyl'' in the table entitled ''Alternative testing methods for contaminants listed at 40 CFR 141.24(e)(1).''

■ h. By revising the entry for ''Pentachlorophenol'' in the table entitled ''Alternative testing methods for contaminants listed at 40 CFR 141.24(e)(1).''

■ i. By adding entries for ''Simazine'' and ''Toxaphene'' after the entry for ''Picloram'' in the table entitled ''Alternative testing methods for contaminants listed at 40 CFR 141.24(e)(1).''

■ j. By revising the entry for ''Uranium'' in the table entitled ''Alternative testing methods for contaminants listed at 40 CFR 141.25(a).''

■ k. By adding the table entitled ''Alternative testing methods for contaminants listed at 40 CFR 141.704(a)'' after the table entitled ''Alternative testing methods for contaminants listed at 40 CFR 141.402(c)(2).''

The additions and revisions read as follows:

Appendix A to Subpart C of Part 141—Alternative Testing Methods Approved for Analyses Under the Safe Drinking Water Act

* * * * *

ALTERNATIVE TESTING METHODS FOR CONTAMINANTS LISTED AT 40 CFR 141.23(K)(1)

Contaminant	Methodology	EPA Method	SM 21st Edition [1]	SM Online [3]	ASTM [4]	Other
*	*	*	*	*	*	*
Fluoride	Ion Chromatography		4110 B			
	Manual Distillation; Colorimetric SPADNS.		4500–F^- B, D			
	Manual Electrode		4500–F^- C		D 1179–04, 10 B	
	Automated Alizarin		4500–F^- E			
	Arsenite-Free Colorimetric SPADNS.					Hach SPADNS 2 Method 10225 [22]
*	*	*	*	*	*	*
Mercury	Manual, Cold Vapor		3112 B	3112 B–09		
*	*	*	*	*	*	*
Silica	Colorimetric				D859–05, 10	
	Molybdosilicate		4500–SiO_2 C			
	Heteropoly blue		4500–SiO_2 D			
	Automated for Molybdate-reactive Silica.		4500–SiO_2 E			
	Axially viewed inductively coupled plasma-atomic emission spectrometry (AVICP–AES).	200.5, Revision 4.2 [2].				
	Inductively Coupled Plasma		3120 B			
*	*	*	*	*	*	*

ALTERNATIVE TESTING METHODS FOR CONTAMINANTS LISTED AT 40 CFR 141.24(E)(1)

Contaminant	Methodology	EPA Method	SM 21st Edition [1]	SM Online [3]
*	*	*	*	*
Alachlor	Solid Phase Extraction/Gas Chromatography/Mass Spectrometry (GC/MS).	525.3 [24]		
Atrazine	Solid Phase Extraction/Gas Chromatography/Mass Spectrometry (GC/MS).	525.3 [24], 523 [26]		
	Liquid Chromatography Electrospray Ionization Tandem Mass Spectrometry (LC/ESI–MS/MS).	536 [25]		
Benzo(a)pyrene	Solid Phase Extraction/Gas Chromatography/Mass Spectrometry (GC/MS).	525.3 [24]		
*	*	*	*	*
Chlordane	Solid Phase Extraction/Gas Chromatography/Mass Spectrometry (GC/MS).	525.3 [24]		
*	*	*	*	*
Di(2-ethylhexyl)adipate	Solid Phase Extraction/Gas Chromatography/Mass Spectrometry (GC/MS).	525.3 [24]		
Di(2-ethylhexyl)phthalate	Solid Phase Extraction/Gas Chromatography/Mass Spectrometry (GC/MS).	525.3 [24]		
*	*	*	*	*
Endrin	Solid Phase Extraction/Gas Chromatography/Mass Spectrometry (GC/MS).	525.3 [24]		
*	*	*	*	*
Heptachlor	Solid Phase Extraction/Gas Chromatography/Mass Spectrometry (GC/MS).	525.3 [24]		
Heptachlor Epoxide	Solid Phase Extraction/Gas Chromatography/Mass Spectrometry (GC/MS).	525.3 [24]		
Hexachlorobenzene	Solid Phase Extraction/Gas Chromatography/Mass Spectrometry (GC/MS).	525.3 [24]		
Hexachlorocyclo-pentadiene	Solid Phase Extraction/Gas Chromatography/Mass Spectrometry (GC/MS).	525.3 [24]		
Lindane	Solid Phase Extraction/Gas Chromatography/Mass Spectrometry (GC/MS).	525.3 [24]		

ALTERNATIVE TESTING METHODS FOR CONTAMINANTS LISTED AT 40 CFR 141.24(E)(1)—Continued

Contaminant	Methodology	EPA Method	SM 21st Edition [1]	SM Online [3]
Methoxychlor	Solid Phase Extraction/Gas Chromatography/Mass Spectrometry (GC/MS).	525.3 [24]		
* * * * * * *				
PCBs (as Aroclors)	Solid Phase Extraction/Gas Chromatography/Mass Spectrometry (GC/MS).	525.3 [24]		
Pentachlorophenol	Gas Chromatography/Electron Capture Detection (GC/ECD).		6640 B	6640 B–01
	Solid Phase Extraction/Gas Chromatography/Mass Spectrometry (GC/MS).	525.3 [24]		
* * * * * * *				
Simazine	Solid Phase Extraction/Gas Chromatography/Mass Spectrometry (GC/MS).	525.3 [24], 523 [26]		
	Liquid Chromatography Electrospray Ionization Tandem Mass Spectrometry (LC/ESI–MS/MS).	536 [25]		
Toxaphene	Solid Phase Extraction/Gas Chromatography/Mass Spectrometry (GC/MS).	525.3 [24]		
* * * * * * *				

ALTERNATIVE TESTING METHODS FOR CONTAMINANTS LISTED AT 40 CFR 141.25(A)

Contaminant	Methodology	SM 21st Edition [1]	ASTM [4]
Naturally Occurring:			
* * * * * * *			
Uranium			
	Radiochemical	7500–U B	
	ICP–MS	3125	D5673–05, 10
	Alpha spectrometry	7500–U C	D3972–09
	Laser Phosphorimetry		D5174–07
	Alpha Liquid Scintillation Spectrometry		D6239–09
* * * * * * *			

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ALTERNATIVE TESTING METHODS FOR CONTAMINANTS LISTED AT 40 CFR 141.704(A)

Organism	Methodology	EPA Method
Cryptosporidium	*Filtration/Immunomagnetic Separation/Immunofluorescence Assay Microscopy*	*1623.1* [27]

* * * * *

[1] *Standard Methods for the Examination of Water and Wastewater,* 21st edition (2005). Available from American Public Health Association, 800 I Street NW., Washington, DC 20001–3710.

[2] EPA Method 200.5, Revision 4.2. ''Determination of Trace Elements in Drinking Water by Axially Viewed Inductively Coupled Plasma-Atomic Emission Spectrometry.'' 2003. EPA/600/R–06/115. (Available at *http://www.epa.gov/nerlcwww/ordmeth.htm.*)

[3] Standard Methods Online are available at *http://www.standardmethods.org.* The year in which each method was approved by the Standard Methods Committee is designated by the last two digits in the method number. The methods listed are the only online versions that may be used.

[4] Available from ASTM International, 100 Barr Harbor Drive, West Conshohocken, PA 19428–2959 or *http://astm.org.* The methods listed are the only alternative versions that may be used.

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[22] Hach Company Method, ''Hach Company SPADNS 2 (Arsenic-free) Fluoride Method 10225—Spectrophotometric Measurement of Fluoride in Water and Wastewater,'' January 2011. 5600 Lindbergh Drive, P.O. Box 389, Loveland, Colorado 80539. (Available at *http://www.hach.com.*)

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[24] EPA Method 525.3. ''Determination of Semivolatile Organic Chemicals in Drinking Water by Solid Phase Extraction and Capillary Column Gas Chromatograph/Mass Spectrometry (GC/MS).'' 2012. EPA/600/R–12/010. (Available at *http://www.epa.gov/nerlcwww/ordmeth.htm.*)

[25] EPA Method 536. ''Determination of Triazine Pesticides and their Degradates in Drinking Water by Liquid Chromatography Electrospray Ionization Tandem Mass Spectrometry (LC/ESI–MS/MS).'' 2007. EPA–815–B–07–002. (Available at *http://water.epa.gov/drink.*)

[26] EPA Method 523. ''Determination of Triazine Pesticides and their Degradates in Drinking Water by Gas Chromatography/Mass Spectrometry (GC/MS).'' 2011. EPA–815–R–11–002. (Available at *http://water.epa.gov/drink.*)

[27] EPA Method 1623.1. ''*Cryptosporidium* and *Giardia* in Water by Filtration/IMS/FA.'' 2012. EPA–816–R–12–001. (Available at *http://water.epa.gov/drink.*)

[FR Doc. 2012–15727 Filed 6–27–12; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA–R06–RCRA–2012–0367 FRL-9692–7]

Louisiana: Final Authorization of State Hazardous Waste Management Program Revision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Immediate final rule.

SUMMARY: Louisiana has applied to the EPA for final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). The EPA has determined that these changes satisfy all requirements needed to qualify for final authorization, and is authorizing the State's changes through this immediate final action. The EPA is publishing this rule to authorize the changes without a prior proposal because we believe this action is not controversial and do not expect comments that oppose it. Unless we receive written comments which oppose this authorization during the comment period, the decision to authorize Louisiana's changes to its hazardous waste program will take effect. If we receive comments that oppose this action, we will publish a document in the **Federal Register** withdrawing this rule before it takes effect, and a separate document in the proposed rules section of this issue of the **Federal Register** will serve as a proposal to authorize the changes.

DATES: This final authorization will become effective on August 27, 2012 unless the EPA receives adverse written comment by July 30, 2012. If the EPA receives such comment, it will publish a timely withdrawal of this immediate final rule in the **Federal Register** and inform the public that this authorization will not take effect.

ADDRESSES: Submit your comments by one of the following methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
2. *Email: patterson.alima@epa.gov.*
3. *Mail:* Alima Patterson, Region 6, Regional Authorization Coordinator, State/Tribal Oversight Section (6PD–O), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733.
4. *Hand Delivery or Courier.* Deliver your comments to Alima Patterson, Region 6, Regional Authorization Coordinator, State/Tribal Oversight Section (6PD–O), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733.

Instructions: Do not submit information that you consider to be CBI or otherwise protected through regulations.gov, or email. The Federal regulations.gov Web site is an ''anonymous access'' system, which means the EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an email comment directly to the EPA without going through regulations.gov, your email address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, the EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If the EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, the EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. You can view and copy Louisiana's application and associated publicly available materials from 8:30 a.m. to 4 p.m. Monday through Friday at the following locations: Louisiana Department of Environmental Quality, 602 N. Fifth Street, Baton Rouge, Louisiana 70884–2178, phone number (225) 219–3559 and EPA, Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, phone number (214) 665–8533. Interested persons wanting to examine these documents should make an appointment with the office at least two weeks in advance.

FOR FURTHER INFORMATION CONTACT: Alima Patterson, Region 6, Regional Authorization Coordinator, State/Tribal Oversight Section (6PD–O), Multimedia Planning and Permitting Division, EPA Region 6, 1445 Ross Avenue, Dallas Texas 75202–2733, (214) 665–8533) and Email address *patterson.alima@epa.gov.*

SUPPLEMENTARY INFORMATION:

A. Why are revisions to State programs necessary?

States which have received final authorization from the EPA under RCRA section 3006(b), 42 U.S.C. 6926(b), must maintain a hazardous waste program that is equivalent to, consistent with, and no less stringent than the Federal program. As the Federal program changes, States must change their programs and ask the EPA to authorize the changes. Changes to State programs may be necessary when Federal or State statutory or regulatory authority is modified or when certain other changes occur.

Most commonly, States must change their programs because of changes to the EPA's regulations in 40 Code of Federal Regulations (CFR) parts 124, 260 through 268, 270, 273, and 279.

B. What decisions have we made in this rule?

We conclude that Louisiana's application to revise its authorized program meets all of the statutory and regulatory requirements established by RCRA. Therefore, we grant Louisiana final authorization to operate its hazardous waste program with the changes described in the authorization application. Louisiana has responsibility for permitting treatment, storage, and disposal facilities within its borders (except in Indian Country) and for carrying out the aspects of the RCRA program described in its revised program application, subject to the limitations of the Hazardous and Solid Waste Amendments of 1984 (HSWA). New Federal requirements and prohibitions imposed by Federal regulations that the EPA promulgates under the authority of HSWA take effect in authorized States before they are authorized for the requirements. Thus, the EPA will implement those requirements and prohibitions in Louisiana including issuing permits, until the State is granted authorization to do so.

C. What is the effect of today's authorization decision?

The effect of this decision is that a facility in Louisiana subject to RCRA will now have to comply with the authorized State requirements instead of the equivalent Federal requirements in order to comply with RCRA. Louisiana has enforcement responsibilities under its State hazardous waste program for violations of such program, but the EPA retains its authority under RCRA sections 3007, 3008, 3013, and 7003, which include, among others, authority to:

- Do inspections, and require monitoring, tests, analyses, or reports;
- Enforce RCRA requirements and suspend or revoke permits and
- Take enforcement actions after notice to and consultation with the State.

This action does not impose additional requirements on the

regulated community because the regulations for which Louisiana is being authorized by today's action are already effective under State law, and are not changed by today's action.

D. Why wasn't there a proposed rule before today's rule?

The EPA did not publish a proposal before today's rule because we view this as a routine program change and do not expect comments that oppose this approval. We are providing an opportunity for public comment now. In addition to this rule, in the proposed rules section of today's **Federal Register** we are publishing a separate document that proposes to authorize the State program changes.

E. What happens if the EPA receives comments that oppose this action?

If the EPA receives comments that oppose this authorization, we will withdraw this rule by publishing a document in the **Federal Register** before the rule becomes effective. The EPA will base any further decision on the authorization of the State program changes on the proposal mentioned in the previous paragraph. We will then address all public comments in a later final rule. You may not have another opportunity to comment. If you want to comment on this authorization, you must do so at this time. If we receive comments that oppose only the authorization of a particular change to the State hazardous waste program, we will withdraw only that part of this rule, but the authorization of the program changes that the comments do not oppose will become effective on the date specified above. The **Federal Register** withdrawal document will specify which part of the authorization will become effective, and which part is being withdrawn.

F. For what has Louisiana previously been authorized?

The State of Louisiana initially received final authorization on February 7, 1985, (50 FR 3348), to implement its base Hazardous Waste Management Program. We granted authorization for changes to their program on November 28, 1989 (54 FR 48889) effective January 29, 1990; August 26, 1991 (56 FR 41958) effective August 26, 1991; November 7, 1994 (59 FR 55368) effective January 23, 1995; December 23, 1994 (59 FR 66200) effective March 8, 1995; there were technical corrections made on January 23, 1995 (60 FR 4380), effective January 23, 1995; and another technical correction was made on April 11, 1995 (60 FR 18360) effective April 11, 1995; October 17, 1995 (60 FR 53704) effective January 2, 1996; March 28, 1996 (61 FR 13777) effective June 11, 1996; December 29, 1997 (62 FR 67572) effective March 16, 1998; October 23, 1998 (63 FR 56830) effective December 22, 1998; August 25, 1999 (64 FR 46302) effective October 25, 1999; September 2, 1999 (64 FR 48099) effective November 1, 1999; February 28, 2000 (65 FR 10411) effective April 28, 2000; January 2, 2001 (66 FR 23) effective March 5, 2001; December 9, 2003 (68 FR 68526) effective February 9, 2004, June 10, 2005 (70 FR 33852) effective August 9, 2005; November 13, 2006 (71 FR 66116) effective January 12, 2007, August 16, 2007 (72 FR 45905) effective October 15, 2007, May 20, 2009 (74 FR 23645) effective July 20, 2009 and June 24, 2011(76 FR 122) effective August 23, 2011. On April 25, 2012, Louisiana applied for approval of its program revisions for RCRA Cluster XX in accordance with 40 CFR 271.21(b)(3).

Since 1979 through the Environmental Affairs Act, Act 449 enabled the Office of Environmental Affairs within the Louisiana Department of Natural Resources, as well as, the Environmental Control Commission to conduct an effective program designed to regulate those who generate, transport, treat, store, dispose or recycle hazardous waste. During the 1983 Regular Session of the Louisiana Legislature, Act 97 was adopted, which amended and reenacted La. R. S. 30:1051 *et seq.* as the Environmental Quality Act, renaming the Environmental Affairs Act (Act 1938 of 1979). This Act created Louisiana Department of Environmental Quality (LDEQ), including provisions for new offices within this new Department of Environmental Quality. Act 97 also transferred the duties and responsibilities previously delegated to the Department of Natural Resources, Office of Environmental Affairs, to the new Department. The LDEQ has lead agency jurisdictional authority for administering the Resource Conservation and Recovery Act (RCRA) Subtitle C program in Louisiana. Also, the LDEQ is designated to facilitate communication between the EPA and the State. During the 1999 Regular Session of Louisiana Legislature, Act 303 revised the La.R.S.30:2011 *et. seq.* allowing LDEQ to reengineer the Department to perform more efficiently and to meet its strategic goals.

It is the intention of the State, through this application, to demonstrate its equivalence and consistency with the Federal statutory tests, which are outlined in the United States Environmental Protection Agency regulatory requirements under 40 CFR Part 271, Subpart A, for final authorization. The submittal of this application is in keeping with the spirit and intent of RCRA, which provides equivalent States the opportunity to apply for final authorization to operate all aspects of their hazardous waste management programs in lieu of the Federal government. The Louisiana Environmental Quality Act authorizes the State's program, Subtitle II of Title 30 of the Louisiana Revised Statutes. With this application Louisiana is applying for authorization for specific areas of the State regulations identified as requiring authorization and the listed Checklists are: 222, 223 and 224 will allow the State to implement the equivalent RCRA Subtitle C portion of the program. Louisiana has demonstrated to EPA that its program was substantially equivalent in its management of hazardous waste to the Federal program developed pursuant to RCRA. The State's program is equivalent to the Federal program as outlined in revision Checklists 222, 223 and 224 which was adopted and became effective on March 20, 2012. EPA did not authorized The State of Louisiana for portions of the provisions of the Standardized Permits because the State did not adopt the federal regulations.

G. What changes are we authorizing with today's action?

On April 25, 2012, Louisiana submitted a final complete program revision application, seeking authorization of their changes in accordance with 40 CFR 271.21. We now make an immediate final decision, subject to receipt of written comments that oppose this action, that Louisiana's hazardous waste program revision satisfies all of the requirements necessary to qualify for Final authorization. Therefore, we grant the State of Louisiana Final authorization for the following changes: The State of Louisiana's program revisions consist of regulations which specifically govern RCRA Cluster XX as documented in this **Federal Register**:

Description of Federal requirement (include checklist #, if relevant)	**Federal Register** date and page (and/or RCRA statutory authority)	Analogous State authority
1. OECD Requirements: Export Shipments of Spend Lead-Acid Batteries. (Checklist 222).	75 FR 1236–1262, January 8, 2010.	Environmental Regulatory Code, Louisiana Department of Environmental Quality, ERC Title 33, Part V. Hazardous Waste and Hazardous Materials, 2010 edition and the September 2010 Supplement. Sections 1101.B, 1113.F, 1113.I.1, 1113.I.1. ''a–b, 1113.I.2, 1127.A.1, 1127.A.1.a, 1127.A.1.b, 1127.A.2, 109 'Competent authority'', 109 (see Concerned countries), 109 ''Country of export'', 109 ''Country of import'', 109 ''Country of transit'', 109 ''Exporter'', 109 ''importer'', 109 ''OECD area'', 109 ''OECD means Organization for Economic Cooperation and Development'' 109 ''Recognized trader'', 109 ''Recovery facility'', 109 ''Recovery operations'' 109 ''Transboundary movement'', 1127.B.1, 1127.B.1.a, 1127.B.1.ai–ii, 1127.B.1.b, 1127.B.1.b.i–ii, 1127.B.1.b.ii9(a) 1127.B.b.ii.(b), 1127.B.1.b.iii, Note to Paragraph 1127.B.1.b.iii, 1127.B.1.c, 1127.B.1.c.i, Notes to Paragraph 1127.B.1.c.i–ii, Note to Paragraph 1127.B.1.c.ii, 1127.B.1.d, 1127.B.1.d.i–ii, 1127.B.2, 1127.B.2.a–b, Note to Paragraph 1127.B.2.b–c, 1127.B.3, 1127.B.a, 1127.B.a.i–ii, 1127.B.3.c, 1127.B.4, 1127.B.4.a–b, 1127.B.5, 1127.B.5.a–b, 1127.B.6, 1127.B.6.a–e, 1127.B.7, 1127.C.1–2, 1127.C.2.a, 1127.C.2.a.i–ii–iii, 1127C.2.b, 1127.C.2.b.i–ii, 1127.C.3–4, 1127.C.4.a–n, Note to Paragraph 1127.C.4.n, 1127.C.5, 1127.D.1, 1127.D.1.a–b, 1127.D.2, 1127.D.2.a–b–g, 1127.D.3–5, 1127.E.1–2, 1127.E.2.a–d, 1127.E.3,1127.E.3.a–b, 1127.E.4–5, Note to Paragraph 1127.E.5, 1127.E.6, 1127.E.7, Note to Paragraph 1127.E.7, 1127.F.1–2, 1127.G.1, 1127.G.1.a–e, 1127>G.1.e.i–ii, 1127.G.1.f, 1127.G.2, 1127.G.2.a–c, 1127.G.3, 1127.G.3.a, 1127.G.3.a.i–iv, 1127.G.3.b, 1127.H, 1127.I.1, 1127.I.1.a–b, 1127.I.2–4, 1301.F, 1531.B, 1516.B.5, 1516.B.4, 4311 (1531), 4353.A (1516), and 4145.A.Table, as amended December 20, 2011, effective March 20, 2012.
2. Hazardous Waste Technical Corrections and Clarifications. (Checklist 223).	75 FR 12989–13009, March 18, 2010.	Environmental Regulatory Code, Louisiana Department of Environmental Quality, ERC Title 33, Part V. Hazardous Waste and Hazardous Materials, 2010 edition and the September 2010 Supplement. Sections 109 ''New hazardous waste management facility or new facility'', 109 ''Processed Scrap Metal, 109, table1, 105.D.1.p.vi, 108.B, 108.E'', 108.E.1–2, 108.E.2 Comment, 108.F intro, 108.F.2, 108.Gintro, 108.G.2, 4105.A.2, 4105.A.2, 4105.A.2.b, 4105.A.1, 109.Empty Container 1.a–b, 109.Empty Container 2.a, 109.Empty Container.2.c, 4903.D.8, 4901.A.1–2, 4901.B.1.Table 1, 4901.C.Table 2, 4901.F.Table 4, Chapter 49 Table 6, 1101.D, 1103.C. 1107.D.7, 1107.D.7.a, 1107.D.7.a.i–ii, 1107.D.7.b–d, 1109.E.1, 1109.E.1.a.iv(b), 1109.E.1.c, 1109.E.1.e, 1109.E.1.a.iv(b), 1109.E.2, 1109.E.4, 1109>E.5&6, 1109.E.7.c, 1109.E.9, 1109.E.12, 1111.B.2, 1111.C.1–2, 1111.C.4, 1111.C.4.a–b, 1111.C.3 Note, 1123.B, 1305.C, 1513.B.2, 1513.F.4.b,1516.C.5.a.vi, 1516.C.6.a.i–c, 2515.E, 2519.A.2, 2603.A.3.b, 2603.A.3.c–d, 2603.E.4.d.vi, 4341 (1513.B), 4349 (1513.F), 1516.C.5.a.vi, 1516.C.6.a.i, 1516.C.6.b–c, 4507.E, 4511.A.2, 4139.B–B.2, 4141.B, 4143.D, 4145.B, 3003.C.1, 3003.C.2, 2299.Appendix Table 2, 2299.Appendix 7, 307.A, and 307.B, as amended December 20, 2011, effective March 20, 2012.
3. Withdrawal of Emission Comparable Fuel Exclusion. (Checklist 224).	75 FR 33712–33724, June 15, 2010.	Environmental Regulatory Code, Louisiana Department of Environmental Quality, ERC Title 33, Part V. Hazardous Waste and Hazardous Materials, 2010 edition and the September 2010 Supplement. Sections 105.D.1.q, 4909 Title, 4909.A, 4909.B, 4909.B.1, 4909.B.1.a–b, 4909.B.2, 4909.C, 4909.C.1–5, 4909.D.3, 4909.D.3.a, 4909.D.3.a.i–iii, 4909.D.3.b, 4909.D.5.a, 4909.D.5.a.i–iii, 4909.D.5.b, 4909.D.6, 4909.D, 4909.d.1, 4909.d.1.a.i, 4909.D.a.i(a)–(e), 4909.D.1.a.ii–iii, 4909.D.1.b, 4909.D.1.b.i–v, 4909.D.2, 4909.D.2.a–b, 4909.D.2.b.1–ii, 4909.D.2.c–d, 4909.D.7, 4909.D.7.a, 4909.D.7.a.i–v, 4909.D.7.b, 4909.D.7.b.i–viii, 4909.D.7.c, 4909.D.8, 4909.D.8.a, 4909.D.8.a.i–iv, 4909.D.8.b–c, 4909.D.8.c.i–ii, 4909.D.8.d–h, 4909.D.8.h.i–ii, 4909.D.8.i, 4909.D.9–10, 4909.D.10.a, 4909.D.10.a.a.i–iii, 4909.D.10.b–h, 4909.D.10.1, 4909.D.10.i–v, 4909.D.11–12, 4909.12.a–c, 4909.D.13–15, 4909.D.15.a, 4909.15.b–c, 4909.D.15.c.i–11, 4909.D.16–17, 4909.D.17.a–b, 4909.D.18, and 4909.E, as amended December 20, 2011, effective March 20, 2012.

H. Where are the revised state rules different from the Federal rules?

In this authorization of the State of Louisiana program revisions for Cluster XX rules, there are no provisions that are more stringent or broader in scope.

I. Who handles permits after the authorization takes effect?

Louisiana will issue permits for all the provisions for which it is authorized and will administer the permits it issues. The EPA will continue to administer any RCRA hazardous waste permits or portions of permits which we issued prior to the effective date of this authorization. We will not issue any more new permits or new portions of permits for the provisions listed in the Table in this document after the effective date of this authorization. The EPA will continue to implement and issue permits for HSWA requirements for which Louisiana is not yet authorized.

J. How does today's action affect Indian Country in Louisiana?

Louisiana is not authorized to carry out its Hazardous Waste Program in Indian Country within the State. This authority remains with EPA. Therefore, this action has no effect in Indian Country.

K. What is codification and is the EPA codifying Louisiana's hazardous waste program as authorized in this rule?

Codification is the process of placing the State's statutes and regulations that comprise the State's authorized hazardous waste program into the CFR. We do this by referencing the authorized State rules in 40 CFR part 272. We reserve the amendment of 40 CFR part 272, subpart T for this authorization of Louisiana's program changes until a later date. In this authorization application the EPA is not codifying the rules documented in this **Federal Register** notice.

M. Statutory and Executive Order Reviews

The Office of Management and Budget (OMB) has exempted this action from the requirements of Executive Order 12866 (58 FR 51735, October 4, 1993), and therefore this action is not subject to review by OMB. This action authorizes State requirements for the purpose of RCRA 3006 and imposes no additional requirements beyond those imposed by State law. Accordingly, I certify that this action will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this action authorizes preexisting requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). For the same reason, this action also does not significantly or uniquely affect the communities of Tribal governments, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999), because it merely authorizes State requirements as part of the State RCRA hazardous waste program without altering the relationship or the distribution of power and responsibilities established by RCRA. This action also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it is not economically significant and it does not make decisions based on environmental health or safety risks. This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not a significant regulatory action under Executive Order 12866.

Under RCRA 3006(b), the EPA grants a State's application for authorization as long as the State meets the criteria required by RCRA. It would thus be inconsistent with applicable law for the EPA, when it reviews a State authorization application, to require the use of any particular voluntary consensus standard in place of another standard that otherwise satisfies the requirements of RCRA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. As required by section 3 of Executive Order 12988 (61 FR 4729, February 7, 1996), in issuing this rule, the EPA has taken the necessary steps to eliminate drafting errors and ambiguity, minimize potential litigation, and provide a clear legal standard for affected conduct. The EPA has complied with Executive Order 12630 (53 FR 8859, March 15, 1988) by examining the takings implications of the rule in accordance with the ''Attorney General's Supplemental Guidelines for the Evaluation of Risk and Avoidance of Unanticipated Takings'' issued under the Executive Order. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

The Congressional Review Act, 5 U.S.C. 801 *et seq.,* as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. The EPA will submit a report containing this document and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication in the **Federal Register**. A major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This action will be effective August 27, 2012.

List of Subjects in 40 CFR Part 271

Environmental protection, Administrative practice and procedure, Confidential business information, Hazardous waste, Hazardous waste transportation, Indian lands, Intergovernmental relations, Penalties, Reporting and recordkeeping requirements.

Authority: This action is issued under the authority of sections 2002(a), 3006, and 7004(b) of the Solid Waste Disposal Act as amended 42 U.S.C. 6912(a), 6926, 6974(b).

Dated: June 15, 2012.

Samuel Coleman,

Acting Regional Administrator, Region 6.

[FR Doc. 2012–15872 Filed 6–27–12; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 54

[WC Docket Nos. 11–42, 03–109, 12–23 and CC Docket No. 96–45; FCC 12–11]

Lifeline and Link Up Reform and Modernization, Advancing Broadband Availability Through Digital Literacy Training

AGENCY: Federal Communications Commission.

ACTION: Correcting amendments.

SUMMARY: This document contains corrections to the final rules in 47 CFR part 54, which were published in the

Federal Register March 2, 2012, (77 FR 12952). A correction to the final regulations in part 54 was published in the **Federal Register** March 30, 2012 (77 FR 19125). The regulations relate to the Federal Communications Commission's initiatives to comprehensively reform and modernize the Universal Service Lifeline program. The reforms adopted will substantially strengthen protections against waste, fraud, and abuse; improve program administration and accountability; improve enrollment and consumer disclosures; initiate modernization of the program for broadband; and constrain the growth of the program in order to reduce the burden on all who contribute to the Universal Service Fund.

DATES: These correcting amendments are effective June 28, 2012.

FOR FURTHER INFORMATION CONTACT: Kimberly Scardino, Wireline Competition Bureau, (202) 418–7400 or TTY: (202) 418–0484.

SUPPLEMENTARY INFORMATION:

Background

Part 54 rules are issued pursuant to the Communications Act of 1934, as amended. The purpose of the part 54 rules is to implement section 254 of the Communications Act of 1934, as amended. 47 U.S.C. 254. This action corrects the final regulation implemented at §§ 54.407, 54.409, 54.410, 54.412, 54.416, 54.417, 54.420, and 54.422, of the Commission's rules. 47 CFR 54.407, 54.409, 54.410, 54.412, 54.416, 54.417, 54.420, and 54.422.

Need for Correction

The March 2, 2012, **Federal Register** Summary (77 FR 12952) contains errors in certain final rules. This document corrects those errors.

List of Subjects in 47 CFR Part 54

Communications common carriers, Reporting and recordkeeping requirements, Telecommunications, Telephone.

Accordingly, 47 CFR part 54 is corrected by making the following correcting amendments:

PART 54—UNIVERSAL SERVICE

■ 1. The authority citation for part 54 continues to read as follows:

Authority: U.S.C. 151, 154(i), 201, 205, 214, 219, 220, 254, 303(r), 403, and 1302 unless otherwise noted.

§ 54.407 [Corrected]

■ 2. In § 54.407, paragraph (d), remove ''from each of the subscribers'' and add, in its place, ''for each of the subscribers.''

■ 3. Amend § 54.409 by revising paragraph (a)(3) to read as follows:

§ 54.409 Consumer qualification for Lifeline.

(a) * * *

(3) The consumer meets additional eligibility criteria established by a state for its residents, provided that such-state specific criteria are based solely on income or other factors directly related to income.

* * * * *

■ 4. Amend § 54.410 by revising paragraph (c)(1)(iii) to read as follows:

§ 54.410 Subscriber eligibility determination and certification.

* * * * *

(c) * * *

(1) * * *

(iii) Must, consistent with § 54.417, keep and maintain accurate records detailing the data source a carrier used to determine a subscriber's program-based eligibility or the documentation a subscriber provided to demonstrate his or her eligibility for Lifeline.

* * * * *

§ 54.410 [Corrected]

■ 5. In § 54.410, redesignate the second paragraph designated as (d)(3)(ii) through paragraph (d)(3)(viii) as (d)(3)(iii) through (d)(3)(ix).

■ 6. Amend § 54.412 by revising paragraphs (a) and (b) to read as follows:

§ 54.412 Off reservation Tribal lands designation process.

(a) The Commission's Wireline Competition Bureau and the Office of Native Affairs and Policy may, upon receipt of a request made in accordance with the requirements of this section, designate as Tribal lands, for the purposes of the Lifeline and Tribal Link Up program, areas or communities that fall outside the boundaries of existing Tribal lands but which maintain the same characteristics as lands identified as Tribal lands defined as in § 54.400(e).

(b) A request for designation must be made to the Commission by a duly authorized official of a federally recognized American Indian Tribe or Alaska Native Village.

* * * * *

§ 54.416 [Amended]

■ 7. In § 54.416, remove paragraph (a)(3).

■ 8. Amend § 54.417 by revising paragraph (c) to read as follows:

§ 54.417 Recordkeeping requirements.

* * * * *

(c) Non-eligible-telecommunications-carrier resellers that purchase Lifeline discounted wholesale services to offer discounted services to low-income consumers must maintain records to document compliance with all Commission requirements governing the Lifeline and Tribal Link Up program for the three full preceding calendar years and provide that documentation to the Commission or Administrator upon request. To the extent such a reseller provides discounted services to low-income consumers, it must fulfill the obligations of an eligible telecommunications carrier in §§ 54.405 and 54.410.

■ 9. Amend § 54.420 by revising paragraph (a)(5), to read as follows:

§ 54.420 Low income program audits.

(a) * * *

(5) *Delegated authority.* The Wireline Competition Bureau and the Office of Managing Director have delegated authority to perform the functions specified in paragraphs (a)(2) and (a)(3) of this section.

* * * * *

■ 10. Revise § 54.422 to read as follows:

§ 54.422 Annual reporting for eligible telecommunications carriers that receive low-income support.

(a) In order to receive support under this subpart, an eligible telecommunications carrier must annually report:

(1) The company name, names of the company's holding company, operating companies and affiliates, and any branding (a ''dba,'' or ''doing-business-as company'' or brand designation) as well as relevant universal service identifiers for each such entity by Study Area Code. For purposes of this paragraph, ''affiliates'' has the meaning set forth in section 3(2) of the Communications Act of 1934, as amended; and

(2) Information describing the terms and conditions of any voice telephony service plans offered to Lifeline subscribers, including details on the number of minutes provided as part of the plan, additional charges, if any, for toll calls, and rates for each such plan. To the extent the eligible telecommunications carrier offers plans to Lifeline subscribers that are generally available to the public, it may provide summary information regarding such plans, such as a link to a public Web site outlining the terms and conditions of such plans.

(b) In order to receive support under this subpart, a common carrier that is designated as an eligible telecommunications carrier under section 214(e)(6) of the Act and does not

receive support under subpart D of this part must annually provide:

(1) Detailed information on any outage in the prior calendar year, as that term is defined in 47 CFR 4.5, of at least 30 minutes in duration for each service area in which the eligible telecommunications carrier is designated for any facilities it owns, operates, leases, or otherwise utilizes that potentially affect

(i) At least ten percent of the end users served in a designated service area; or

(ii) A 911 special facility, as defined in 47 CFR 4.5(e).

(iii) Specifically, the eligible telecommunications carrier's annual report must include information detailing:

(A) The date and time of onset of the outage;

(B) A brief description of the outage and its resolution;

(C) The particular services affected;

(D) The geographic areas affected by the outage;

(E) Steps taken to prevent a similar situation in the future; and

(F) The number of customers affected.

(2) The number of complaints per 1,000 connections (fixed or mobile) in the prior calendar year;

(3) Certification of compliance with applicable service quality standards and consumer protection rules;

(4) Certification that the carrier is able to function in emergency situations as set forth in § 54.202(a)(2).

(c) All reports required by this section must be filed with the Office of the Secretary of the Commission, and with the Administrator. Such reports must also be filed with the relevant state commissions and the relevant authority in a U.S. territory or Tribal governments, as appropriate.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. 2012–15626 Filed 6–27–12; 8:45 am]

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Proposed Rules

Federal Register
Vol. 77, No. 125
Thursday, June 28, 2012

This section of the FEDERAL REGISTER contains notices to the public of the proposed issuance of rules and regulations. The purpose of these notices is to give interested persons an opportunity to participate in the rule making prior to the adoption of the final rules.

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 1033

[Doc. No. AO–11–0333; AMS–DA–11–0067; DA–11–04]

Milk in the Mideast Marketing Area; Final Decision

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule; final decision.

SUMMARY: This final decision recommends adoption of a proposal to amend the Pool Plant provisions of the Mideast Federal milk marketing order to reflect that distributing plants physically located within the marketing area with a Class I utilization of at least 30 percent, and with combined route disposition and transfers of at least 50 percent distributed into Federal milk marketing areas, would be regulated as a Pool Distributing Plant under the terms of the order.

FOR FURTHER INFORMATION CONTACT: Erin C. Taylor, Order Formulation and Enforcement Division, USDA/AMS/Dairy Programs, STOP 0231–Room 2963, 1400 Independence Ave. SW., Washington, DC 20250–0231, (202) 720–7183, email address: *erin.taylor@ams.usda.gov*.

SUPPLEMENTARY INFORMATION: This final decision recommends adoption of amendments that will more adequately define the plants, and the producer milk associated with those plants, that serve the fluid needs of the Mideast market and therefore which producers should share in the additional revenue arising from fluid milk sales.

This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12866.

The amendments proposed herein have been reviewed under Executive Order 12988, Civil Justice Reform. They are not intended to have a retroactive effect.

The Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674) (the Act), provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c (15)(A) of the Act, any handler subject to an order may request modification or exemption from such order by filing with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with the law. A handler is afforded the opportunity for a hearing on the petition. After a hearing, the U.S. Department of Agriculture (USDA or Department) would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has its principal place of business, has jurisdiction in equity to review USDA's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Regulatory Flexibility Act and Paperwork Reduction Act

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601–612), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities and has certified that this proposed rule will not have a significant economic impact on a substantial number of small entities.

For the purpose of the Regulatory Flexibility Act, a dairy farm is considered a ''small business'' if it has an annual gross revenue of less than $750,000, and a dairy products manufacturer is a ''small business'' if it has fewer than 500 employees. For the purposes of determining which dairy farms are ''small businesses,'' the $750,000 per year criterion was used to establish a production guideline of 500,000 pounds per month. Although this guideline does not factor in additional monies that may be received by dairy producers, it should be an inclusive standard for most ''small'' dairy farms. For purposes of determining a handler's size, if the plant is part of a larger company operating multiple plants that collectively exceed the 500-employee limit, the plant will be considered a large business even if the local plant has fewer than 500 employees.

During October 2011, the time of the hearing, there were 6,651 dairy farms pooled on the Mideast order. Of these, approximately 6,169 dairy farms (or 92.8 percent) were considered small businesses.

During October 2011, there were 51 handler operations associated with the Mideast order (25 fully regulated handlers, 8 partially regulated handlers, 2 producer-handlers and 16 exempt handlers). Of these, approximately 38 handlers (or 74.5 percent) were considered small businesses.

The Pool Plant provisions of the Mideast order define which plants have an association with serving the fluid milk market demand of the Mideast marketing area, and therefore determine the producers and the producer milk that can participate in the marketwide pool as well as share in the Class I market revenues. The proposed amendments could fully regulate handlers that currently fall under partial regulation. As a result, these handlers would be required to account to the Mideast order marketwide pool. Consequently, all producers whose milk is pooled and priced under the terms of the Mideast order would benefit from the additional revenue contributed to the marketwide pool by the newly-regulated distributing plant. The Department anticipates that while these additional monies would be shared with all producers serving the market, the proposed amendments would not have a significant economic impact on a substantial number of small entities.

AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

A review of reporting requirements was completed under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). It was determined that the proposed amendment would have no impact on reporting, recordkeeping, or other compliance requirements because it would remain identical to the current requirements. No new forms are proposed and no additional reporting requirements would be necessary.

This final decision does not require additional information collection that

requires clearance by the Office of Management and Budget (OMB) beyond currently approved information collection. The primary sources of data used to complete the approved forms are routinely used in most business transactions. The forms require only a minimal amount of information which can be supplied without data processing equipment or a trained statistical staff. Thus, the information collection and reporting burden is relatively small. Requiring the same reports for all handlers does not significantly disadvantage any handler that is smaller than the industry average.

Interested parties were invited to submit comments on the probable regulatory and informational impact of this proposed rule on small entities.

Prior Documents in This Proceeding

Notice of Hearing: Issued September 2, 2011; published September 8, 2011 (76 FR 55608).

Recommended Decision: Issued February 24, 2012; published February 29, 2012 (77 FR 12216).

Preliminary Statement

Notice is hereby given of the filing with the Hearing Clerk of this final decision with respect to proposed amendments to the tentative marketing agreement and the order regulating the handling of milk in the Mideast marketing area. This notice is issued pursuant to the provisions of the Agricultural Marketing Agreement Act and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR part 900).

A public hearing was held upon proposed amendments to the marketing agreement and the order regulating the handling of milk in the Mideast marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937 (AMAA), as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure governing the formulation of marketing agreements and marketing orders (7 CFR part 900).

The proposed amendments set forth below are based on the record of a public hearing held in Cincinnati, Ohio, pursuant to a notice of hearing issued September 2, 2011. At the hearing, evidence was also gathered to determine whether market conditions exist to warrant consideration of the proposal on an emergency basis.

The material issues on the record of hearing relate to:

1. Amendment of the Pool Plant Definition.

Findings and Conclusions

This final decision recommends adoption of a proposal, published in the Notice of Hearing as Proposal 1, with two modifications: one proposed at the hearing and one conforming change made by AMS. Proposal 1, as published, would amend the Pool Plant provisions of the Mideast order so that any plant physically located within the marketing area would be fully regulated by the Mideast order if 50 percent of the plant's total combined route disposition and transfers fell within Federal milk marketing area boundaries and not more than 25 percent of the plant's route disposition were within any single Federal marketing area. This decision recommends striking the 25 percent in-area route disposition qualifier from the initial proposal, as proposed by Superior Dairy, Inc. (Superior Dairy) during the hearing. As such, any distributing plant physically located in the Mideast milk marketing area with combined total route distribution and transfers of 50 percent or more into Federal milk marketing areas would be regulated by the terms of the Mideast order. (As discussed below, a plant meeting this new standard could still become pooled by another order if it has total route distribution of at least 50 percent into one Federal marketing area for 3 consecutive months (as provided for in § 1033.7(h)(3)).) Additionally, the regulatory text recommended in this decision has been modified by AMS to add clarifying text to ensure consistency with current order provisions.

The Pool Plant provisions of the Mideast order define how plants demonstrate an adequate association with the fluid market, and therefore the milk associated with those plants that is pooled and priced under the terms of the order. The Pool Distributing Plant standard of the Mideast order first requires a plant to meet a minimum Class I utilization, which is the percentage of fluid milk physically received at the plant that is distributed or transferred as Class I (fluid) products. The Class I utilization standard for the Mideast Federal Milk Marketing Order (FMMO) is 30 percent. The plant must also show a reasonable association with the order's Class I market; that association is determined by the percentage of the plant's total Class I route disposition that is distributed or transferred within the marketing area, or ''in-area'' route disposition. In the Mideast order, 25 percent of the plant's Class I route disposition must be to outlets within the Mideast marketing area. If a plant meets both the 30 percent Class I utilization and the 25 percent ''in-area'' route disposition standard the plant will be a fully regulated distributing plant. Once fully regulated, a distributing plant must account to the marketwide pool at classified use values and pay its producers at least the order's minimum blend price.

A witness appeared on behalf of the proponents of Proposal 1, Dairy Farmers of America, Inc., Continental Dairy Products, Inc., Dairylea Cooperative Inc., Erie Cooperative Association, Foremost Farms USA Cooperative, Inc., Michigan Milk Producers Association, Inc., National Farmers Organization, Inc., Prairie Farms Dairy, Inc., and White Eagle Cooperative Association (collectively referred to as DFA *et al.*), in support of modifying the Pool Plant provisions of the Mideast milk marketing order. The witness stated that DFA *et al.* are all member-owned Capper Volstead cooperatives that collectively market the majority of the milk in the Mideast milk marketing area.

The DFA *et al.* witness estimated that more than 85 percent of the nearly 6,974 producers whose milk is pooled on the Mideast order are small businesses. The witness was of the opinion that the disorderly marketing conditions resulting from what they consider to be inadequate Pool Plant provisions are harming these small businesses and that failing to address these issues would be detrimental to their dairy farmer members.

The DFA *et al.* witness testified that the intent of FMMOs are to create and preserve orderly marketing conditions by, among other things, maintaining classified pricing and a marketwide pooling system in which all handlers pay uniform minimum classified prices based on their milk utilization and producers receive a minimum uniform blend price. The witness testified that when marketwide pooling and classified pricing are jeopardized, FMMOs should be amended to maintain order in the market.

The DFA *et al.* witness explained why they proposed a change to the Pool Plant provisions of the Mideast order. The witness testified that a large fluid milk bottling plant owned by Superior Dairy, located in Canton, Ohio, which had previously been fully regulated by either the Mideast or Northeast Federal milk orders, was able to become partially regulated under the current provisions of both orders. The witness testified that Superior Dairy's Canton plant was able to avoid full regulation by transferring packaged product ultimately bound for distribution in the Northeast marketing area through a smaller sister plant located in Wauseon,

Ohio, thereby reducing the route disposition from its Canton plant below the 25 percent in-area route disposition requirement.

The DFA *et al.* witness was of the opinion that the Pool Plant provisions of the Mideast order allow Superior Dairy to avoid full regulation and consequently cause disorder in the market in two primary ways: (1) Producers who incur the additional costs of servicing the order's Class I market are not guaranteed a uniform blend price, and (2) similarly situated handlers are not assured the same raw milk costs. The witness reviewed the producer payment options available to partially regulated plants and explained how the ability of plants like Superior Dairy's plant to avoid full regulation causes disorder. The witness elaborated that one of the producer payment options, commonly known as the ''Wichita Option,'' for partially regulated plants requires plants to pay its producer suppliers, in aggregate, minimum Federal order classified values. The witness noted that while a Partially Regulated Distributing Plant (PRDP) has to pay aggregated classified values to it producers, it is not required to pay its producers uniformly on an individual basis. The witness said that if a plant demonstrates to the Market Administrator that this aggregate value requirement is met, then no additional payment into the order's producer settlement fund (PSF) is necessary. The witness testified that when partially regulated plants opt to pay their producer suppliers the minimum Federal order classified values, in aggregate, the plant can include over-order premiums in that calculation, whereas a fully regulated handler cannot. In orders such as the Mideast order, where significant over-order premiums are necessary to obtain a milk supply, the witness noted, this cost savings could be significant for a plant. The witness said that this savings could be used by the plant to increase market share for fluid milk sales, or to procure additional milk supplies to gain a competitive advantage with similarly situated, fully regulated pool handlers who are required to pay classified milk use values to the PSF (not including over-order premiums) and minimum blend prices to dairy farmers.

The DFA *et al.* witness attempted to estimate the amount of money that Superior Dairy was able to retain from January of 2010 to July of 2011 by avoiding full regulation on the Mideast order. The witness was of the opinion that Superior Dairy was able to retain approximately $0.93 per hundredweight (cwt) on average, the potential ''advantage'' over fully regulated handlers, equal to a cumulative monthly total savings averaging just under $289,000 (based on an assumed monthly plant volume of 30 million pounds). The witness added that a similarly situated fully regulated handler would have paid this money into the order's PSF to be shared with all producers servicing the market. However, Superior Dairy's partially regulated status allowed it to retain the money and, as a result, minimum blend prices to all the Mideast order's pool producers were reduced.

The DFA *et al.* witness asserted that, over the years, Federal orders have been amended to reduce the disorder resulting from plants being regulated in areas different from the area in which they procure milk. The witness referred to a 1988 decision, ''Milk in the Ohio Valley and Louisville-Lexington-Evansville Marketing Areas'' (53 FR 14804), that amended Pool Distributing Plant standards to correct a disorderly marketing condition which caused similarly situated plants within the same competitive area to have different raw milk costs. In this case, a plant that was located in the Louisville-Lexington-Evansville marketing area, but had most of its route disposition in another marketing area, was regulated by the Louisville-Lexington-Evansville marketing order. This change was premised on the idea that a plant should be regulated in the marketing area in which there is a reasonable assurance that it will have available an adequate supply of producer milk, which therefore promotes uniformity of prices to producers within the procurement area of the plant. The witness stated that the market disorder created by Superior Dairy's partially regulated status is similar to the issues addressed in the referenced 1988 decision, and again urged the Department to recommend the adoption of Proposal 1 as an appropriate solution.

The DFA *et al.* witness concluded by requesting that the Department consider this proposal on an emergency basis. The witness said that DFA *et al.* supplies milk to both Superior Dairy and other fully regulated plants. According to the witness, the difference in regulatory status between its buyers causes disorderly marketing conditions that directly impact its members. Additionally, Superior Dairy's competitive advantage due to its partially regulated status lowers the value of the order's marketwide pool, thereby reducing the minimum blend price to all the order's producers each month that Superior Dairy is not fully regulated.

A second witness appeared on behalf of DFA *et al.* in support of Proposal 1. The witness reiterated the testimony of the earlier witness concerning the disorderly marketing conditions resulting from the Superior Dairy Canton plant becoming partially regulated. The witness said that the Department had taken steps in the past to restore order within the markets when there was evidence of plants engaging in uneconomic milk shipments and other business practices solely to avoid becoming fully regulated. The witness referenced regulatory changes made as a part of Federal order reform that closed loopholes that could be used to avoid regulation. Specifically, the witness highlighted amendments that prevented plants from using diverted milk volumes as part of the calculation used to determine eligibility for pooling.[1] The witness implied that the Department addressed this loophole to help maintain an orderly market.

A witness representing Dairy Farmers of America (DFA) appeared in support of Proposal 1. The witness purported to have first-hand knowledge of the Wauseon, Ohio, plant before it was purchased by Superior Dairy. The witness testified that the plant had been closed by two prior owners who found the facility to be inefficient and economically nonviable. The witness claimed that the facility was the smallest in the region and that no other plants of similar size and/or logistical constraints existed in the area. The witness described in detail what they perceived to be logistical complications resulting from the limited size of the Wauseon plant. These complications, the witness asserted, were evidence that the plant was being used by Superior Dairy to facilitate the uneconomic movement of milk in an attempt to avoid regulation. The witness acknowledged that they had not entered into the Wauseon plant since Superior Dairy's acquisition of the facility and had no knowledge of Superior Dairy's internal business processes.

A witness appeared on behalf of Michigan Milk Producers Association, Inc. (MMPA) in support of Proposal 1. MMPA is a member-owned Capper Volstead cooperative which pools the majority of its producer milk on the Mideast order. The witness stated that MMPA was a supporter of Federal orders in that they provide equality for producers and an orderly market for handlers.

The MMPA witness stated that the change in regulatory status of Superior Dairy's Canton plant was a concern that

[1] 64 FR 16025.

raised questions of competitive equity between similarly situated handlers. The witness also referenced an earlier witness' testimony that included an analysis revealing a possible competitive advantage that a partially regulated plant could capture in addition to examining the degree of inequity that could exist amongst similarly situated plants.

The MMPA witness was of the opinion that Superior Dairy's purchase of a smaller distributing plant approximately 200 miles away in Wauseon, Ohio, was a business decision made to avoid full regulation under Federal orders by transferring packaged product from the larger Canton plant northwest to the smaller Wauseon plant and later transporting this product back east to its final destination. The witness stated that this uneconomic movement of product was an attempt to avoid full regulation of the larger distributing plant.

A witness from the Southern Marketing Agency (SMA) spoke in support of Proposal 1. SMA is a Capper-Volstead marketing agency comprised of seven cooperative members operating in the southern United States. The witness explained that Superior Dairy was unique from other handlers due to its broad distribution footprint which spanned the Northeast, Appalachian, Florida, Southeast, Central, and Mideast milk marketing areas. The witness opined that few other handlers of conventional fluid milk products had such expansive route disposition. The witness asserted that Superior Dairy was in direct competition with other Mideast fully regulated handlers for farm milk supplies.

The SMA witness testified that recent shifts in the manner of Federal order regulation of Superior Dairy has created market disorder. The witness testified that when a large bottling plant is able to escape full regulation by the order from which its raw milk supply is procured and utilized at the plant, dairy farmers and cooperative associations face difficulties in raw milk procurement planning. The witness explained how seasonal changes in demand for Class I milk products create the need for each plant to maintain a reserve supply to ensure that their Class I needs are always met. The witness said that cooperatives routinely schedule milk deliveries into certain plants to ensure that reserve requirements are met and producers remain qualified to participate in the order's marketwide pool. The witness described how the pooling of necessary reserve milk supplies is complicated when a large plant such as Superior Dairy changes its regulatory status, or regulated by a Federal order distant from its milk procurement areas. The witness further explained that because pooling requirements vary between orders, a situation can arise where a plant switches the order it is regulated on, but producers who normally supply and are pooled by the plant are not automatically qualified to be pooled on the new order. The witness explained how this misallocation of reserve supplies to handlers could unintentionally leave producers who regularly bear the cost of supplying the Class I market excluded from the order's marketwide pool.

The SMA witness testified that the pooling of a plant in an order distant from the plant's physical location creates market disorder. The witness stated that ''lock-in'' type provisions are used to address the wide route disposition patterns of extended shelf life (ESL) products. The witness testified that Federal orders regulate plants that manufacture ESL products in the order that the plant is located, regardless of where the majority of milk is sold. The witness testified that the pooling of ESL manufacturers in this manner prevents market disorder that would result from the plant switching regulation between orders. The witness opined that similar regulation of plants similar to Superior Dairy would prevent disorderly marketing conditions.

The SMA witness asserted that Superior Dairy has a clear advantage over its fully regulated competitors since it is able to avoid payments into any PSF under partial regulation. The witness testified that the uneconomic movement of milk from Superior's Canton facility west to its Wauseon facility for subsequent distribution in the Northeast order was designed to limit the route disposition of Superior's Canton plant into any marketing area, thereby avoiding full regulation. The witness testified that this practice should be prohibited to prevent the potential for further disorderly marketing conditions.

A witness testifying on behalf of Superior Dairy spoke in opposition to Proposal 1. According to the witness, Superior Dairy is a handler of Class I fluid milk products processing about 40 million pounds of milk per month at its two facilities. The witness argued that the change in regulatory status of Superior Dairy between the Northeast and Mideast FMMOs and between partial and full regulation does not disrupt marketing conditions in sufficient measure to warrant regulatory change.

The Superior Dairy witness said the majority of milk processed by the company is supplied by DFA. The witness testified that DFA charged PRDPs such as Superior Dairy classified prices plus an over-order premium based on the plant's raw milk utilization, as per industry practice. The witness noted that the company had an 82 percent Class I utilization and approximately 90 percent of its route distribution was in Federal milk marketing areas. The witness testified that Superior Dairy was regulated by the Mideast order until March 2010, the Northeast order from April 2010 to February 2011, and partially regulated on both orders since March 2011.

The Superior Dairy witness testified that the company was able to increase sales in recent years by implementing new packaging technology. The witness testified that the new packaging technology allowed the company to gain large clients whose distribution networks were substantially larger than that of traditional buyers. The witness noted that the result of that growth was increased sales into, and subsequent regulation by, the Northeast milk marketing order in April 2010. The witness explained that Class I sales to outlets within the boundaries of the Northeast marketing area increased to 28 percent of total Class I volume sold, which decreased the percentage of its Class I sales within then Mideast marketing area to around 20 percent. The witness testified that regulation on the Northeast marketing order required that Superior Dairy pay into the Northeast PSF, rather than the Mideast PSF, which in turn required a larger monthly pool obligation to the plant. The witness elaborated that the change in regulation from the Mideast order to the Northeast order harmed Superior Dairy's producers since the Northeast blend price, when adjusted to their location in Canton, Ohio, was $0.13 per cwt lower than the Mideast blend price. The witness said that this required Superior Dairy to increase the over order premiums paid to its Mideast raw milk suppliers to remain competitive while also paying into the Northeast PSF, thus increasing its total raw milk procurement costs. The witness noted that Superior Dairy preferred to be regulated by the Mideast order, rather than the Northeast, but was unable to expand their route distribution sufficiently in the Mideast marketing area to remain regulated by that order.

The Superior Dairy witness explained how the Canton plant came to be partially regulated as opposed to being fully regulated on the Northeast or Mideast order. The witness testified that

the company purchased a small plant in Wauseon, Ohio, in early 2011. The witness affirmed that the addition of this facility allowed Superior Dairy to decrease route distribution from its Canton plant to below 25 percent in both the Northeast and the Mideast marketing areas, allowing it to become partially regulated on both orders. The witness also added that the new facility was of interest to the company in that it allowed them to expand its procurement area for raw milk into Western Ohio and Southern Michigan without adding administrative personnel.

The Superior Dairy witness testified that one of the Federal order provisions available to handlers with limited route disposition into Federal order areas, sometimes referred to as the ''Wichita Option,'' requires handlers to pay dairy farmers, in aggregate, the Federal order minimum classified values. The witness argued that the partial regulation of Superior Dairy does not provide any competitive sales advantage over its fully regulated competitors. However, the witness said that Federal order provisions for PRDPs do not promote equity amongst dairy farmers since the price received by dairy farmers for raw milk sold to a partially regulated plant can differ from the price of milk sold to a fully regulated plant. The witness testified that if a handler is partially regulated under the ''Wichita Option,'' it essentially operates as an individual handler pool. The witness explained how producers who ship milk to a PRDP with a higher than market average Class I utilization can receive a higher price than producers who ship milk to a fully regulated plant and are in turn paid the order's minimum blend price. The witness testified that Superior Dairy's producer suppliers are, in fact, paid an ''in-plant'' blend price that is higher than the Mideast blend price. The witness further added that producers are in fact not harmed when a partially regulated plant is supplied by a cooperative (as is the case with Superior Dairy), as the cooperative (and its producer-members) then receive the higher in-plant blend price. The witness also said that these blend price differences have not caused market disorder since other Mideast fully regulated distributing plants have continued to receive an adequate supply of milk.

The Superior Dairy witness explained how adoption of Proposal 1 would harm its own independent producer suppliers. The witness testified that Superior Dairy purchases raw milk from approximately 120 independent producers, most of which are small businesses. Those producers, noted Superior Dairy's witness, receive an in-plant blend price for their raw milk greater than the Mideast order blend price. The witness asserted that the price the independent producers receive for their raw milk would decrease should the Superior Dairy Canton facility be fully regulated because that plant would be required to account to the PSF for its Class I sales and that additional revenue would then be shared with all producers servicing the market, not just Superior Dairy's independent producer suppliers.

The Superior Dairy witness testified that Proposal 1 should not be adopted and its Canton, Ohio, plant should remain partially regulated. However, the witness said, should the Department decide to fully regulate either the Canton or Wauseon plant, it would be preferred that both plants be regulated on the Mideast order. The witness noted that provisions exist in certain orders allowing plants producing ESL products to be locked into regulation on an order by virtue of geographic location rather than route distribution. The witness stated that since the route disposition patterns of Superior Dairy are similar to plants producing ESL products, it is reasonable to regulate Superior Dairy based on geographical location, not route disposition.

Accordingly, the Superior Dairy witness offered two separate modifications to Proposal 1 that the witness believed would lock Superior Dairy's Canton plant into regulation on the Mideast order. The witness suggested that Proposal 1 be modified by removing the 25 percent in-area route disposition qualifier so that plants physically located in the Mideast order with route disposition and transfers of at least 50 percent into Federal marketing areas would be regulated on the Mideast order. Alternatively, the witness suggested modifying Proposal 1 so that plants located in the Mideast order that have route disposition and transfers of at least 50 percent into any Federal market orders and sales into at least four separate marketing areas would be regulated on the Mideast order.

The Superior Dairy witness disputed multiple times the data assembled and analyzed by the DFA *et al.* witness. The Superior Dairy witness explained that the data used by DFA *et al.* in its analysis did not, among other things, address over-order premiums paid by Superior Dairy to their producer suppliers.

The witness from Superior Dairy was of the opinion that there was no need for the Department to consider this measure under emergency rulemaking procedures.

A post-hearing brief was submitted on behalf of DFA *et al.* reiterating their testimony that inadequate Pool Plant provisions in the Mideast order are causing disorderly marketing conditions and that a large fluid milk bottling plant should not be able to avoid full regulation by transferring fluid milk products between plants. The brief claimed that when using the analysis introduced in their testimony, the cost advantage to a hypothetical PRDP of similar size to Superior Dairy (a monthly plant volume of 40 million pounds) averaged $373,000 per month from January 2010 to July 2011. The brief reiterated that because Superior Dairy is able to include over-order premiums in its theoretical pool obligation calculation, this can amount to a large cost advantage to the plant. The brief explained that by Superior Dairy avoiding payments into the PSF, producer price differentials, on average, were reduced by approximately $0.028 per cwt in the Mideast order or $0.018 per cwt in the Northeast order, depending on how the plant was regulated. The brief reinforced the SMA witness' testimony regarding the disorder created in the pooling of reserve supplies by a plant changing regulatory status from one order to another. The brief also emphasized the importance of market-wide pooling and uniform producer and handler values and stated that these fundamentals are undermined if major participants in the market can avoid regulation.

In brief, DFA *et al.* wrote that they were in support of the first alternate proposal offered at the hearing by Superior Dairy. The brief stated that the alternate proposal would resolve the market disorder that was the catalyst for the hearing request and that DFA *et al.* considers this the best option for producers supplying the fluid milk needs of the Superior Dairy Canton facility and Mideast marketing area as a whole. The brief stated that while typically a plant is regulated according to its route distribution, there have been exceptions made in order to regulate plants based on their procurement area. In these instances, DFA *et al.* wrote, milk procurement area and producer price equity became the integral, more important factor because of the need to stabilize the milk supply for plants with route distribution in multiple marketing areas. As a whole, DFA *et al.* viewed the first alternate proposal as the best amendment to resolve the issue and, if the Department did not recommend Superior Dairy's alternative proposal,

suggested that Proposal 1 as originally noticed be adopted.

A post-hearing brief was filed on behalf of Land O'Lakes, Inc., Agri-Mark, Inc., Maryland and Virginia Milk Producers Cooperative Association, Inc., and St. Alban's Cooperative Creamery, Inc., (Northeastern Cooperatives), in support of Proposal 1. The Northeastern Cooperatives are member-owned Capper Volstead cooperatives that pool their producers' milk on numerous FMMOs. The brief reiterated the testimony of witnesses in support of Proposal 1 as originally noticed and reviewed current order provisions that distinguish where a plant is regulated based off of the plant's route disposition instead of the geographical location of the plant. The brief reasserted the testimony of a Superior Dairy witness who said that 28 percent of its route distribution was in the Northeast marketing area in comparison to 20 percent in the Mideast marketing area.

The Northeastern Cooperatives brief opposed the alternate proposals offered by Superior Dairy at the hearing. The brief stated that alternate proposals should have been offered when the initial request for additional proposals was made so they could be included in the Notice of Hearing. The brief emphasized the Northeastern Cooperatives' opinion that the alternate proposals would ''lock-in'' Superior Dairy to regulation by the Mideast order, even if its route distribution was 25 percent or more into another Federal marketing area. The brief stressed that implementation of a supposed ''lock-in'' provision would be of economic benefit to Superior Dairy, not producers.

The Northeastern Cooperatives brief also stressed that the alternative Superior Dairy proposal would not require a plant to meet the 25 percent in-area route disposition standard, even though the plant would become regulated by the Mideast order. The brief emphasized that it is important to always consider route disposition as a factor when determining the FMMO in which a plant should be regulated.

SMA filed a post hearing brief reiterating that disorderly marketing conditions are occurring as a result of inadequate Pool Plant provisions. SMA, in brief, offered its support to the modifications of Proposal 1 advanced by Superior Dairy during the hearing as a method for alleviating the disorderly marketing conditions. The brief noted that the disorder results from the disruption of uniform pricing, the switching of the regulatory status of plants from one order to another, the improper pooling assignment of reserve supplies, and the uneconomic movements of milk. SMA, in testimony and in written brief, urged the Department to consider the matter under emergency procedures, asserting that confidence in the Federal milk marketing order pricing system could otherwise be compromised.

A post-hearing brief submitted on behalf of Superior Dairy reiterated many of the points made at the hearing and recommended adoption of the first modification it had offered at the hearing. Superior Dairy asserted that their modified proposal would ''lock-in'' the Superior Dairy Canton plant as a Mideast pool plant by virtue of its geographic location notwithstanding its failure to meet the 25 percent in-area route distribution qualification. The brief stated that the purpose of the amendment was to regulate Superior Dairy as a pool plant under the terms of the Mideast order regardless of whether or not it also qualified as a pool plant in any other order. The brief summarized that the modified proposal sets as qualification standards (1) distribution and transfers of 50 percent or greater of a plant's fluid milk products into Federal milk marketing areas, and (2) plant location within the Mideast marketing area. Superior Dairy wrote that adoption of modified Proposal 1 would ensure the marketwide pooling of revenue for all producers and give Superior Dairy regulatory stability.

In brief, Superior Dairy acknowledged that shifts in plant regulation create disruption and challenges in producer pooling and milk supply coordination. The brief also acknowledged that partially regulated plants such as Superior Dairy enjoyed certain advantages over fully regulated plants as they had price advantages in the procurement of raw milk. The brief explained that because distributing plants have a high Class I utilization, producers supplying the PRDP will always receive a higher price than those serving fully regulated distributing plants, who in turn receive the order's minimum blend price. Consequently, the brief noted, producers serving the PRDP do not equitably share in the burden of balancing the market's milk supplies.

Superior Dairy's brief continued to refute the information provided by the DFA *et al.* witness regarding pricing assumptions and Superior Dairy's purported raw milk cost advantage. Superior Dairy stated that a price advantage did exist to them from being partially regulated; however, the calculation of that advantage as provided by DFA *et al.* was overstated.

Comments and Exceptions

Four comments were filed in response to the recommended decision. DFA *et al.* filed a comment in support of the recommended decision, with one exception. DFA *et al.* supported the Department's finding that all major distributing plants selling milk in Federally regulated areas should be fully regulated to ensure that orderly marketing is maintained. DFA *et al.* also agreed that procurement competition between similarly situated handlers could be used as a factor in determining where a handler should be regulated.

DFA *et al.* took exception to the portion of the recommended decision that addressed how current regulations (§ 1033.7(h)(3)), which would allow a distributing plant (including Superior Dairy's Canton plant) to be pooled on another order if 50 percent or more of its route distribution was in the other order, would apply. DFA *et al.* explained how under current regulations, when blend price relationships across Federal orders allow for a procurement area price advantage, a handler can alter their distribution patterns to enjoy this advantage and become regulated by the favorable Federal order. DFA *et al.* suggested that the Department de-link the proposed order language so that § 1033.(h)(3) would specifically not apply to distributing plants whose route distribution into other Federal orders exceeded 50 percent.

A second comment, filed on behalf of Superior Dairy, expressed support for the proposed amendment contained in the recommended decision. Superior Dairy stated that in proposing its alternative that was ultimately recommended for adoption by the Department, it relied on its interpretation of the Department's regulatory precedence where similar procurement considerations were used to establish other ''lock-in'' provisions, such as those for ESL plants.[2] Superior Dairy wrote that in these situations procurement competition outweighed distribution competition, and therefore a plant became regulated based on its procurement area, not its distribution pattern.

Similar to comments submitted by DFA *et al.,* Superior Dairy took exception to the Department's explanation of how current market order provisions would continue to apply (any distributing plant, including Superior Dairy, who has route distribution greater than 50 percent into

[2] 1XXX.7(b) specifically refers to the production of ultra-pasteurized or aseptically-processed fluid milk products.

another Federal order for 3 consecutive months would become fully regulated in that order). Superior Dairy argued that if this provision were applied, competitive equity between handlers would no longer be assured because the ability of plants to shift regulation from one market to another would still exist. Superior Dairy reiterated its contention that its alternative proposal was designed as a ''lock-in'' provision similar to the ''lock-in'' provision contained in all FMMO's for ESL plants.

A third comment, filed on behalf of SMA, expressed support for the proposal contained in the recommended decision. SMA wrote that the proposed amendment would restore orderly marketing in the Mideast milk marketing area.

A final comment was filed on behalf of Guers Dairy, Galliker Dairy Company, Schneider's Dairy, and Dean Foods Company (Guers *et al.*). The comment did not express support or opposition to the findings made in the recommended decision. Instead, Guers *et al.* requested that in the final decision, the Department explicitly state that the proposed amendment is a result of unique conditions found in the Mideast milk marketing area, and that the hearing record contains no evidence as to whether or not PRDPs located outside of the Mideast milk marketing area, including in unregulated areas, cause disorderly marketing conditions.

Discussion and Findings

At issue in this proceeding is the consideration of proposed amendments to the Mideast FMMO Pool Plant provisions to more adequately define the plants that should be fully regulated by the terms of the Mideast order. This final decision continues to recommend that the Pool Plant provisions be amended to reflect that distributing plants located within the marketing area with a Class I utilization of at least 30 percent and with combined route disposition and transfers of at least 50 percent into Federal milk marketing areas would be regulated as a pool distributing plant under the terms of the Mideast marketing order (not withstanding other order provisions as discussed below).

The Pool Plant provisions of the Mideast order [3] define how plants demonstrate an adequate association with the fluid market, and subsequently how the milk associated with those plants is pooled and priced under the terms of the order. There are several types of plants defined in the Pool Plant provisions. This final decision recommends a change to the definition of a Pool Distributing Plant (a plant that processes milk for fluid uses).

The Pool Distributing Plant standard [4] of the Mideast order first requires a plant to demonstrate an adequate association with the fluid market by meeting a minimum Class I utilization. This is determined by the percentage of fluid milk physically received at the plant that is distributed or transferred as Class I (fluid) products. The Class I utilization standard for the Mideast FMMO is 30 percent. The plant must also show a reasonable association with the order's Class I market; that association is determined by the percentage of the plant's total Class I route disposition that is distributed or transferred within the marketing area, or ''in-area'' route disposition. In the Mideast order, a plant is fully regulated if at least 25 percent of its Class I route disposition and transfers are within the Mideast marketing area. If a plant meets both the 30 percent Class I utilization standard and the 25 percent in-area route distribution standard (termed the ''30/25 percent standard''), the plant is fully regulated as a distributing plant under the terms of the Mideast order. Once fully regulated, a pool distributing plant must account to the marketwide pool at classified use values and is required to pay its producers at least the order's minimum blend price. This process ensures that similarly situated handlers have the same minimum raw milk costs and that the dairy farmers supplying the market share in the revenue generated from all fluid milk sales within the marketing area.

FMMOs rely on the tools of classified pricing and marketwide pooling to assure an adequate supply of milk to meet the market's fluid needs and to provide for the equitable sharing of the revenues arising from the classified pricing of milk. Classified pricing assigns a value to milk according to how the milk is used; Class I (fluid) generally being the highest, followed by Class II (soft products), Class III (cheese), and Class IV (butter and nonfat dry milk). Regulated handlers who buy milk from dairy farmers account to the order's marketwide pool at classified prices according to how they use the milk. Dairy farmers are then paid a weighted average or ''blend'' price. The blend price is derived through the marketwide pooling of all class uses of milk in a marketing area, thus each producer receives an equal share of each use class of milk and is indifferent as to what class their milk is used. Since it is primarily the higher-valued Class I use of milk that adds additional revenue to the marketwide pool, it is reasonable to expect that the producers who consistently bear the costs of supplying the market's fluid needs should be the ones to share in the returns arising from higher-valued Class I sales.

FMMOs have unique provisions for handlers that have route distribution into a marketing area but do not meet the standards for full regulation under the terms of the order. A handler that does not meet the minimum standard for full regulation under a specific FMMO (30/25 percent in the Mideast FMMO) but has route disposition within that marketing area and therefore competes with other fully regulated handlers for their Class I sales is known as a Partially Regulated Distributing Plant (PRDP). USDA has determined that some minimum regulation of PRDPs is necessary to maintain orderly marketing conditions and ensure that the order's classified pricing and marketwide pooling provisions are not undermined.

There are three regulatory schemes, which may require a PRDP to account for route disposition into a marketing area: (1) A PRDP may pay into an order's PSF the difference between the Class I price and the market's blend price on its route disposition within the marketing area; (2) The PRDP pool obligation is calculated as if the plant were fully regulated and this obligation is compared to what the PRDP actually paid its milk suppliers in aggregate. If the obligation is greater than what it actually paid, the PRDP must pay the difference to the order's PSF. If the pool obligation is less than what the PRDP actually paid to its milk suppliers, then no additional payment to the order's PSF is necessary. This is often referred to as the ''Wichita Option;'' or (3) If a PRDP is subject to a State order with classified pricing and marketwide pooling, then it must pay into the order's PSF the difference between what it was required to pay into the State order and the applicable Class I price at the PRDP's location. An administrative assessment is collected by the Market Administrator regardless of which payment scheme the PRDP falls under and whether or not a payment into the PSF is required.

The proponents of Proposal 1 requested this rulemaking proceeding based on their opinion that the current Pool Plant provisions of the Mideast FMMO have allowed a plant with significant route distribution throughout the Mideast and other Federal marketing areas to become a PRDP, which in turn has resulted in disorderly marketing conditions. The proponents described,

[3] 7 CFR 1033.7.

[4] 7 CFR 1033.7(a).

in their hearing testimony and post-hearing brief, a situation where Superior Dairy, which had previously been fully regulated by either the Northeast or Mideast orders, was able to circumvent full regulation by either order.

The proponents provided great detail as to how a loophole in the Mideast Pool Plant provisions has allowed a large, previously fully regulated plant with significant fluid milk sales into Federally regulated areas to avoid full regulation on any Federal order and outlined the market disorder this has created: (1) Similarly situated handlers who compete for fluid milk sales within the marketing area are no longer assured that they pay the same minimum prices for raw milk; and (2) Producers who service the order's Class I market are no longer sharing in all the proceeds from the order's Class I sales. The proponents argued that if this loophole is not closed, other handlers with more than one distributing plant could set up similar distribution patterns between their plants to also avoid full regulation.

Along the same line, the SMA witness described a third disorderly marketing condition, the improper pooling of reserve milk supplies. This witness described a situation where reserve supplies associated with a plant can lose association with the order's marketwide pool as a result of a plant being able to change regulation between orders with different pooling standards.

The Superior Dairy witness testified at the hearing that newly-patented filling and packaging technologies used at their bottling facilities have given them a competitive advantage in the marketplace and as a result, the ability to expand their distribution into numerous Federal marketing areas. According to the Superior Dairy witness, after expanding their route disposition into the Northeast marketing area in April 2010, they became a fully regulated handler in the Northeast order. Superior claims that it quickly found regulation on the Northeast order to be financially difficult to sustain because the Northeast order blend price payable to producers at the Canton location was lower than the Mideast order blend price at the same location by an average of $0.13 per cwt. The Superior Dairy witness testified that in early 2011 it purchased a small distributing plant in Wauseon, Ohio, which allowed it to adjust its distribution patterns between the two plants so that the Canton plant was no longer regulated by any Federal order.

At the hearing, Superior Dairy offered two alternate modifications to Proposal 1. In their post-hearing brief, Superior Dairy supported adoption of their first modification which would fully regulate any distributing plant physically located within the geographic boundary of the Mideast marketing area if its total fluid route disposition into all Federal orders was greater than 50 percent. This modification would eliminate the stipulation, contained in Proposal 1 as originally noticed, that a plant's sales within any individual marketing area had to be less than 25 percent of its total route distribution.

The pooling standards of a FMMO are represented in the Pool Plant, Producer, and the Producer Milk provisions. Performance based pooling standards provide the only viable method to identify the milk of those producers who service the Class I needs of the market and therefore determine those eligible to share in the marketwide pool. If a pooling provision does not reasonably accomplish this end, the proceeds that accrue to the PSF from the market's fluid milk sales are not equitably shared with the appropriate producers. The result is the unwarranted lowering of returns to those producers who actually incur the costs of servicing and supplying the needs of the fluid milk market and the reserve supplies that are necessary to ensure that fluid demands are met.

The hearing record reflects, and this final decision continues to find, that the current Mideast Pool Plant provisions (7 CFR 1033.7) do not adequately define the plants and the producer milk associated with those plants, which serve the needs of the fluid milk market and should therefore share in the additional revenue arising from fluid milk sales. The hearing record reflects that in the Mideast marketing area, disorderly marketing conditions have arisen because a handler that has significant route distribution into Federally regulated areas is able to avoid regulation by altering its distribution patterns. FMMOs, through the fundamental tools of classified pricing and marketwide pooling, serve to minimize disorderly marketing conditions like the ones presented in this proceeding. A plant's ability to avoid regulation by altering its distribution pattern undermines the classified pricing and marketwide pooling fundamentals that are essential in maintaining orderly marketing.

FMMOs require that distributing plants meeting the Class I utilization and in-area route distribution standards be fully regulated under the terms of the appropriate order. Along the same line, plants with minimal sales into a regulated area and therefore minimal impact on the market fall under partial, not full, regulation. The record reflects that prior to March 2011 Superior Dairy was fully regulated by either the Mideast or Northeast order. Superior Dairy revealed at the hearing that it was the purchase of the Wauseon, Ohio, distributing plant and the subsequent change in distribution patterns between the two plants that enabled the Canton, Ohio, plant to become a PRDP, not because its overall milk sales decreased to a volume where it no longer had an association with the fluid market. In fact, the record shows that Superior Dairy's Class I utilization has remained around 80 percent regardless of its regulatory status and 90 percent of its sales are into regulated Federal milk marketing areas.

The Ohio region where Superior Dairy's plants are located is in relative proximity to five other Federal milk marketing area boundaries. This unique location lends opportunity to adjust route disposition to avoid meeting the in-area route standard of any one Federal order.

The record reflects that Superior Dairy utilizes the ''Wichita Option'' to account for its Class I sales into regulated areas. This choice allows the Canton plant to operate as an individual handler pool. The hearing record documents a unique situation present in the Mideast marketing area. Superior Dairy's operation as an individual handler pool, after having been regulated continuously for decades as a fully regulated distributing plant with a significant volume and an overwhelming majority of its Class I sales into Federally regulated areas, undermines the order's classified pricing and marketwide pooling system—essential principles for orderly marketing and competitive equity. Additionally, handler equity, which the FMMO system strives to maintain, can be evaluated on two fronts: where handlers compete in route distribution and where handlers compete in milk procurement. Both factors are important. However, when the balance of competition is disrupted through uneconomic movements of milk, one factor may become more important in order to restore competitive equity amongst competing handlers.

The classified pricing system ensures regulated handlers that their competitors are paying uniform minimum raw milk costs. In this way, no competitor has an advantage or disadvantage in its raw milk costs because of its regulatory status. While a fully regulated handler must account to the pool for its classified use value and pay its producers the market's blend price, a PRDP using the ''Wichita Option''—as in the case of Superior

Dairy—must only show that it paid its producer suppliers, in aggregate, the classified use values of its raw milk supply. A PRDP operating essentially as an individual handler pool that has a higher in-plant Class I utilization than the market has a competitive advantage when it comes to raw milk procurement over a regulated competitor since it is able to pay its suppliers a higher in-plant blend price. At the hearing, a Superior Dairy witness testified that their Class I utilization was approximately 82 percent. The Class I utilization for the Mideast order in October 2011 (the month the hearing was held) was 38.1 percent. Superior Dairy's raw milk cost advantage due to its partially regulated status is equal to the difference between the in-plant blend price and the market's blend price. This is revenue that a fully regulated handler would have been required to pay into the order's PSF to be shared with all the market's producers, but which Superior has available to pay directly to its producers because of its partially regulated status.

Additionally, since Superior Dairy can include over-order premiums as part of the calculation relied on to prove to the Market Administrator under the ''Wichita Option'' that minimum classified prices are being paid, similarly situated handlers are not guaranteed the same raw milk costs. The record reflects that the payment of over-order premiums is prevalent in the Mideast marketing area. While a regulated handler must pay the order's minimum blend price plus any over-order premium negotiated with its suppliers, a PRDP is able to use the over-order premium to offset its regulatory PSF payment obligation to its suppliers. For example, assume a prevailing over-order premium of $2.00 per cwt on all Class I milk is charged by cooperatives servicing distributing plants and the order's Class I price for the month is $19.00 per cwt. A fully regulated handler would account to the PSF at $19.00 per cwt for any Class I milk utilized and pay the additional over-order premium of $2.00 per cwt directly to the cooperative—meaning that it is actually paying $21.00 per cwt for Class I milk. A PRDP can include the $2.00 per cwt over-order premium paid directly to its suppliers when calculating whether it has an additional pool obligation under the ''Wichita Option.'' In effect, the PRDP pays $19.00 per cwt while the fully regulated plant must pay $21.00 per cwt. This theoretical $2.00 per cwt advantage can be used by the plant in any way it deems fit: To procure additional milk suppliers, to pass the money on to its suppliers, to create a sales advantage over its competitors, or to simply keep as company profit.

This final decision also finds that marketwide pooling principles are undermined because of Superior Dairy's PRDP status. It is clear that Superior is able to retain monies that it otherwise would pay into the PSF if it were fully regulated. The hearing record reflects attempts by proponents to estimate Superior Dairy's cost advantage, and taken a step further, monies that would otherwise be paid into the marketwide pool. In its post-hearing brief, Superior Dairy refutes some of the proponents' assumptions and argues that its cost advantage is lower. Estimating the exact amount of Superior Dairy's purported cost advantage gained by avoiding full regulation is difficult without disclosing confidential business information; furthermore, determining the exact level of that advantage is not necessary to demonstrate its existence and consequent market disorder. What is important is that money is not being equitably shared with all producers supplying the Class I market. Even if Superior Dairy was sharing that money with all its producer-suppliers, it is money that should be shared with all producers servicing the market. Consequently, producers serving the market are receiving a lower blend price than they otherwise would if Superior Dairy were fully regulated.

This final decision continues to recommend the adoption of Proposal 1 as modified by Superior Dairy as an appropriate solution to the current market disorder in the Mideast marketing area. While FMMOs typically regulate (pool) plants based on where their fluid milk sales occur, the hearing record reflects that it is not unprecedented for a plant to be regulated based on competing milk procurement areas. A 1988 decision (53 FR 14804), for example, regulated a plant into the then Louisville-Lexington-Evansville FMMO, in spite of the plant having greater route disposition into another FMMO. This finding was based on the fact that, despite having greater sales into another FMMO, the raw milk procurement area of the plant was the same as other handlers who were regulated by the Louisville-Lexington-Evansville FMMO.

Additionally, all Federal orders contain provisions to regulate plants that primarily process ultra-high temperature or ESL milk products in the Federal order where the plant is physically located. Plants producing longer shelf-life products are regulated by the order where they are physically located [5] primarily because the wide and ever changing geographic distribution patterns of their products can lead to regulation under multiple orders over time. This is not unlike Superior Dairy, who distributes product into seven marketing areas.

The record reflects that Superior Dairy's Canton, Ohio, plant is located in the middle of the Mideast marketing area and competes for a raw milk supply with other pool distributing plants that are regulated by the Mideast order. Furthermore, the record reflects that while Superior Dairy has been able to stay below the 25 percent in-area route distribution standard in other marketing areas, its route distribution into some Federal marketing areas exceeds 20 percent. Given that the plant has route distribution into 7 marketing areas, a 25 percent route distribution threshold could cause future market disorder if the plant shifts regulation from one order to another. Therefore, this final decision finds it appropriate under the facts presented in this rulemaking proceeding to more heavily rely on milk procurement area, not route disposition, as the fundamental primary determinant in recommending changes to the Pool Plant provisions of the Mideast FMMO. Consequently, this decision recommends that distributing plants physically located in the Mideast marketing area who do not meet the 25 percent in-area route distribution standard (the current pooling standard for distributing plants to be regulated by the Mideast order), but have a majority (50 percent or more) of their fluid milk sales into Federally regulated areas, be regulated by the Mideast order.

In its post-hearing brief, Superior Dairy reiterated its opinion that a modified Proposal 1 would ''lock-in'' the Superior Canton plant into regulation under the Mideast order, regardless of future route distribution patterns. However, FMMO's contain a provision in each order (§ 1033.7(h)(3) in the Mideast order) which specifies that if a pool plant has route disposition greater than 50 percent into another Federal order for at least 3 consecutive months then that plant will become regulated by that Federal order. This decision does not amend that provision. If at any time a pool plant regulated by the Mideast order has route disposition of greater than 50 percent into another Federal order for 3 or more consecutive months, that plant would then become regulated by the order where it has a majority of its sales.

Superior Dairy argued in their post-hearing brief that a different provision

[5] 7 CFR 10__.7(b).

contained in each order, (§ 1033.7(h)(5) in the Mideast order) could be relied upon to ''lock-in'' Superior Dairy to the Mideast order. This provision allows the Mideast order to regulate a pool plant even if it meets the pooling standards of another order—essentially it allows the Mideast regulations to control if the plant is ''required'' to be pooled by the Mideast order. Although this decision recommends changes to the Pool Plant provisions of the Mideast order based on clear evidence of disorderly marketing conditions resulting from the partial regulation of Superior Dairy and relies heavily on milk procurement area as one of the reasons behind this change, this decision does not permanently ''lock-in'' or require Superior Dairy, or any other handler, to be regulated by the Mideast FMMO. This decision simply modifies the Pool Plant provisions so that any plant located in the Mideast marketing area that does not meet the in-area route distribution standard, but has at least 50 percent of its total route distribution into Federal marketing areas, becomes regulated under the Mideast order. To be clear, a situation could arise where a plant physically located in the Mideast marketing area meets the in-area route distribution standard of another order but is still regulated on the Mideast order. However, as current regulations already provide for, any plant located in the Mideast marketing area that has more than 50 percent of its route distribution into another Federal order for 3 consecutive months would still become regulated by that other Federal order.

Exceptions to the recommended decision filed on behalf of Superior Dairy and DFA *et al.* asked the Department to reconsider its findings on how § 1033.7(h)(3) would continue to apply to all pool distributing plants regulated by the Mideast order. Both Superior Dairy and DFA *et al.* stated that the modified proposal was designed to lock Superior Dairy into regulation on the Mideast order regardless of its future distribution patterns. Both indicated that without the permanent ''lock-in,'' Superior Dairy, or any other distributing plant that meets the newly amended Pool Plant definition could switch regulation back and forth between orders, and advocated that the proposed amendment be exempt from § 1033.7(h)(3).

This final decision continues to find that an unconditional ''lock-in'' provision is not warranted and any plant located in the Mideast marketing area that has more than 50 percent of its route distribution into another Federal order for 3 consecutive months would become regulated by that other Federal order. This rulemaking proceeding contains no evidence that application of § 1033.7(h)(3) to a plant with more than 50 percent of its route disposition into Federally regulated areas will lead to a plant switching regulation between orders in a way that would be disorderly. A regulated plant knows well in advance if its distribution into another Federal order exceeds 50 percent. In fact, it would not be until the third consecutive month of a plant having such distribution pattern for it to become regulated on another order. Therefore, it will have two months to alter its distribution to fall below 50 percent. This lag between first crossing the 50 percent distribution threshold and when a plant would become regulated by the other order should prevent the arbitrary switching of regulation between orders.

The FMMO system was designed so the revenue from a market is shared amongst all the producers who service the market. Without the application of § 1033.7(h)(3), a situation could arise where a distributing plant located in the Mideast order could have 98 percent of its sales into another Federal order, yet it still be regulated by the terms of the Mideast order. In this case, the revenue from the plant's Class I sales into the other order would not be shared with those producers, but would instead be transferred to Mideast producers who in fact have no other association with the other order's market. This decision finds that such a situation undermines the intent of the FMMO order system and could create further disorderly marketing conditions. Therefore such a loophole should not knowingly be adopted. Commenters who took exception to this interpretation cited the ''lock-in'' provision contained in the all order's for ESL plants. The ''lock-in'' provision for ESL plants was adopted, in part, because of the wide geographic distribution and marketing patterns of those plants due to the longer shelf life of ESL products. In the case of how § 1033.7(h)(3) would apply in this instance, a plant must demonstrate a regular and consistent association with another order for three consecutive months before becoming regulated in the other order. This differentiates plants subject to the current rulemaking proceeding from ESL plants, whose ''lock-in'' was designed to accommodate ESL plants with distribution patterns varying widely by both volume and geography on a monthly basis.

This final decision finds that the recommended amendment contained in this decision will reestablish orderly marketing conditions in the Mideast marketing area, while at the same time ensure that producers in other markets will not be harmed by the potential removal of significant Class I revenues from their marketwide pool.

Lastly, in their post-hearing brief the Northeast Cooperatives took exception to the two modified proposal options offered by Superior Dairy. The Northeast Cooperatives were of the opinion that the two modified proposals presented at the hearing were not properly noticed and that interested parties did not have the opportunity to offer evidence regarding the modifications. This decision finds that the modifications offered by Superior Dairy at the hearing were in fact reasonable given the scope of the initial hearing request and that all interested parties in all Federal orders were given notice and had ample opportunity to offer evidence at the hearing and comment in a post-hearing brief.

Proponents and supporters of the originally noticed Proposal 1 requested that the Department consider this proceeding on an emergency basis because of the ongoing market disorder. The Department finds that issuing a decision on an emergency basis is not warranted. This decision recommends adoption of Proposal 1 as was modified at the hearing. It is appropriate to give all interested parties the opportunity to consider the Department's findings and file written comments and exceptions to this decision before requesting producers to vote on the order, as amended. Additionally, this rulemaking will adhere to the Supplemental Rules of Practice that were issued as a result of the Food, Conservation and Energy Act of 2008 [6] (as contained in 7 CFR part 900.20–.33). These newly established rules provide specific timeframes that the Department must adhere to when amending Federal milk marketing agreements and orders. Therefore, there is insufficient justification for issuing this decision on an emergency basis as the market disorder can still be addressed in a timely manner while allowing for maximum public input before any regulatory changes are made.

AMS has made a conforming change to the regulatory text as offered by Superior Dairy and as recommended for adoption in this final decision. The reference to the 30 percent Class I utilization standard that is already contained in the Pool Distributing plant definition has been added to the proposed amendment. This addition clarifies that a pool plant physically located in the Mideast marketing area that meets the 50 percent route

[6] Public Law 110–234, 110th Congress.

disposition into Federally regulated marketing areas must still meet the 30 percent Class I utilization standard in order to be regulated on the Mideast order.

Rulings on Proposed Findings and Conclusions

Briefs and proposed findings and conclusions were filed on behalf of certain interested parties. These briefs, proposed findings, and conclusions and the evidence in the record were considered in making the findings and conclusions set forth above. To the extent that the suggested findings and conclusions filed by interested parties are inconsistent with the findings and conclusions set forth herein, the requests to make such findings or reach such conclusions are denied for the reasons previously stated in this decision.

General Findings

The findings and determinations hereinafter set forth supplement those that were made when the Mideast order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) The tentative marketing agreement and the order, as hereby proposed to be amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(b) The parity prices of milk as determined pursuant to section 2 of the Act are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for the milk in the marketing area, and the minimum prices specified in the tentative marketing agreement and the order, as hereby proposed to be amended, are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(c) The tentative marketing agreement and the order, as hereby proposed to be amended, will regulate the handling of milk in the same manner as, and will be applicable only to persons in the respective classes of industrial and commercial activity specified in, the marketing agreement upon which a hearing has been held.

(d) All milk and milk products handled by handlers, as defined in the tentative marketing agreements and the orders as hereby proposed to be amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products.

Rulings on Exceptions

In arriving at the findings and conclusions, and the regulatory provisions of this decision, each of the exceptions received was carefully and fully considered in conjunction with the record evidence. To the extent that the findings and conclusions and the regulatory provisions of this decision are at variance with any of the exceptions, such exceptions are hereby overruled for the reasons previously stated in this decision.

Marketing Agreement and Order

Annexed hereto and made a part hereof are two documents, a Marketing Agreement regulating the handling of milk, and an Order amending the order regulating the handling of milk in the Mideast marketing area, which has been decided upon as the detailed and appropriate means of effectuating the foregoing conclusions.

It is hereby ordered that this entire decision and the two documents annexed hereto be published in the **Federal Register**.

Referendum Order To Determine Producer Approval; Determination of Representative Period; and Designation of Referendum Agent

It is hereby directed that a referendum be conducted and completed on or before the 30th day from the date this decision is published in the **Federal Register**, in accordance with the procedures for the conduct of referenda [7 CFR 900.300–311], to determine whether the issuance of the order as amended and hereby proposed to be amended, regulating the handling of milk in the Mideast marketing area is approved or favored by producers, as defined under the terms of the order, as amended and as hereby proposed to be amended, who during such representative period were engaged in the production of milk for sale within the aforesaid marketing area.

The representative period for the conduct of such referendum is hereby determined to be October 2011.

The agent of the Secretary to conduct the referendum is hereby designated to be the Market Administrator of the Mideast marketing area.

List of Subjects in 7 CFR Part 1033

Milk marketing orders.

Order Amending the Order Regulating the Handling of Milk in the Mideast Marketing Area

This order shall not become effective unless and until the requirements of § 900.14 of the rules of practice and procedure governing proceedings to formulate marketing agreements and marketing orders have been met.

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the order was first issued and when it was amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

(a) Findings. A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Mideast marketing area. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure (7 CFR part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said order as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the Act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the aforesaid marketing area. The minimum prices specified in the order as hereby amended are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said order as hereby amended regulates the handling of milk in the same manner as, and is applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

Order Relative to Handling

It is therefore ordered, that on and after the effective date hereof, the handling of milk in the Mideast marketing area shall be in conformity to and in compliance with the terms and conditions of the order, as amended, and as hereby amended, as follows:

The provisions of the order amending the order contained in the Recommended Decision issued by the Acting Administrator, Agricultural Marketing Service, on February 24, 2012, and published in the **Federal Register** on February 29, 2012 (77 FR 12216), are adopted and shall be the terms and provisions of this order. The revised order follows.

PART 1033—MILK IN THE MIDEAST MARKETING AREA

1. The authority citation for 7 CFR part 1033 continues to read as follows:

Authority: 7 U.S.C. 601–674, and 7253.

2. Amend § 1033.7 by revising paragraph (a) to read as follows:

§ 1033.7 Pool Plant

* * * * *

(a) A distributing plant, other than a plant qualified as a pool plant pursuant to paragraph (b) of this section or § ___.7(b) of any other Federal milk order, from which during the month 30 percent or more of the total quantity of fluid milk products physically received at the plant (excluding concentrated milk received from another plant by agreement for other than class I use) are disposed of as route disposition or are transferred in the form of packaged fluid milk products to other distributing plants. At least 25 percent of such route disposition and transfers must be to outlets in the marketing area. Plants located within the marketing area that meet the 30 percent route disposition standard contained above, and have combined route disposition and transfers of at least 50 percent into Federal order marketing areas will be regulated as a distributing plant in this order.

* * * * *

Dated: June 22, 2012.

David R. Shipman,

Administrator, Agricultural Marketing Service.

[FR Doc. 2012–15670 Filed 6–27–12; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2012–0645; Directorate Identifier 2011–NM–052–AD]

RIN 2120–AA64

Airworthiness Directives; The Boeing Company Airplanes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to supersede an existing airworthiness directive (AD) that applies to all The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. The existing AD currently requires repetitive inspections to detect cracking in the web of the aft pressure bulkhead at body station 1016 at the aft fastener row attachment to the ''Y'' chord, and corrective actions if necessary. That AD was prompted by several reports of fatigue cracking at that location, which could result in rapid decompression of the fuselage. Since we issued that AD, we have received additional reports of cracks found in the aft pressure bulkhead. This proposed AD would add various inspections for discrepancies at the aft pressure bulkhead, and related investigative and corrective actions if necessary. We are proposing this AD to detect and correct such fatigue cracking, which could result in rapid decompression of the fuselage.

DATES: We must receive comments on this proposed AD by August 13, 2012.

ADDRESSES: You may send comments, using the procedures found in 14 CFR 11.43 and 11.45, by any of the following methods:

- *Federal eRulemaking Portal:* Go to *http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Fax:* 202–493–2251.
- *Mail:* U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590.
- *Hand Delivery:* Deliver to Mail address above between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com*. You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://www.regulations.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (phone: 800–647–5527) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Alan Pohl, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: (425) 917–6450; fax: (425) 917–6590; email: *alan.pohl@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2012–0645; Directorate Identifier 2011–NM–052–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because of those comments.

We will post all comments we receive, without change, to *http://www.regulations.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact we receive about this proposed AD.

Discussion

On April 9, 1999, we issued AD 99–08–23, Amendment 39–11132 (64 FR 19879, April 23, 1999), for all The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes. That AD requires repetitive inspections of the web of the aft pressure bulkhead at body station 1016 at the aft fastener row attachment to the ''Y'' chord; and corrective actions, if necessary. That AD resulted from reports of fatigue cracking found at that location on The Boeing Company Model 737 series airplanes. We issued that AD to detect and correct such fatigue cracking, which could result in rapid decompression of the fuselage.

Actions Since Existing AD Was Issued

Since we issued AD 99–08–23, Amendment 39–11132 (64 FR 19879, April 23, 1999), we have received reports that cracks have been found in four general areas of the aft pressure bulkhead: In the web at the web-to-''Y'' chord interface, in the web at the outer circumferential tear strap, in the web near the dome cap, and in the ''Z'' stiffeners near the dome cap. Cracks have been reported in these new areas on airplanes that have accumulated between 21,246 and 68,000 total flight cycles, and between 17,500 and 61,000 total flight hours.

Relevant Service Information

We reviewed Boeing Alert Service Bulletin 737–53A1214, Revision 4, dated December 16, 2011. The service information describes procedures and compliance times for various inspections for discrepancies (including cracking, misdrilled fastener holes, elongated fastener holes, corrosion, oil-cans, and existing repairs) at the aft pressure bulkhead, and related investigative and corrective actions if necessary, as follows:

- Repetitive detailed and low frequency eddy current (LFEC) inspections of the aft side of the upper bulkhead web, or detailed and high frequency eddy current (HFEC) inspections from the forward side of the bulkhead, to detect cracks, incorrectly drilled fastener holes, or elongated fastener holes; and related investigative actions, including HFEC and detailed inspections to detect additional cracks, incorrectly drilled fastener holes, or elongated fastener holes on the section of the web of the forward side of the bulkhead.
- Repetitive detailed, surface HFEC, and subsurface LFEC inspections to detect cracks, incorrectly drilled fastener holes, or elongated fastener holes of the lower bulkhead web from the forward or aft side of the bulkhead.
- A one-time LFEC inspection to detect cracks on the aft side of the bulkhead of the web located under the outer circumferential tear strap, or a one-time HFEC inspection to detect cracks from the forward side of the bulkhead of the web located under the outer circumferential tear strap.
- A detailed inspection from the aft side of the bulkhead for oil-canning, and related investigative actions. The related investigative actions include detailed and HFEC inspections for cracks, and a measurement of the depth and width of the oil-can. For airplanes on which oil-cans are found within limits, the service information specifies an option of doing repetitive detailed and HFEC inspections for cracks of the oil-canning and eventual repair. Doing the repair terminates the repetitive inspections.
- Repetitive eddy current inspections to detect cracks of the dome cap at the center of the bulkhead.
- Repetitive HFEC inspections to detect cracks of the ''Z'' stiffener flanges at the dome cap in the center of the bulkhead.
- A detailed inspection of the bulkhead web and of the stiffeners for existing repairs; and, depending on the findings, repetitive HFEC or LFEC inspections of the web for cracking; replacement of existing repairs with new repairs, and damage tolerance inspections.
- The corrective actions include repairing discrepancies (including cracking, misdrilled fastener holes, elongated fastener holes, corrosion, oil-cans, and existing repairs), or for certain discrepancies, contacting Boeing for repair instructions.
- The initial compliance times vary depending on inspection type and area. The earliest initial inspection is within 375 flight cycles after the effective date of this AD. The latest initial inspection is within 6,000 flight cycles or 24 months after the effective date of this AD, whichever occurs first.

The compliance times for the option, for airplanes on which oil-cans are found within limits, of doing repetitive detailed and HFEC inspections for cracks of the oil-canning and eventual repair are as follows: The initial inspections are done before further flight. The repetitive interval is 1,200 flight cycles. The repair must be done within 12,000 flight cycles after the oil-can was found.

The repetitive inspections range from intervals not to exceed 6,000 flight cycles to intervals not to exceed 12,000 flight cycles, depending on the inspection type and area.

FAA's Determination

We are proposing this AD because we evaluated all the relevant information and determined the unsafe condition described previously is likely to exist or develop in other products of the same type design.

Proposed AD Requirements

This proposed AD would retain all requirements of AD 99–08–23, Amendment 39–11132 (64 FR 19879, April 23, 1999). This proposed AD would also require accomplishing the actions specified in the service information described previously, except as discussed under ''Differences Between the Proposed AD and the Service Information.''

Changes to Existing AD

This proposed AD would retain all requirements of AD 99–08–23, Amendment 39–11132 (64 FR 19879, April 23, 1999). Since AD 99–08–23 was issued, the AD format has been revised, and certain paragraphs have been rearranged. As a result, the corresponding paragraph identifiers have changed in this proposed AD, as listed in the following table:

REVISED PARAGRAPH IDENTIFIERS

Requirement in AD 99–08–23, Amendment 39–11132 (64 FR 19879, April 23, 1999)	Corresponding requirement in this proposed AD
paragraph (a)	paragraph (g)
paragraph (b)	paragraph (h)
paragraph (c)	paragraph (i)
paragraph (d)	paragraph (j)

Boeing Commercial Airplanes has received an Organization Designation Authorization (ODA). We have revised this proposed AD to delegate the authority to approve an alternative method of compliance for any repair required by this proposed AD to the Boeing Commercial Airplanes ODA rather than a Designated Engineering Representative (DER).

We have revised the date of the document specified in paragraph (j)(1) of this proposed AD (which is a restatement of paragraph (d)(1) of AD 99–08–23, Amendment 39–11132 (64 FR 19879, April 23, 1999)), to November 5, 1995, as specified in the ''Incorporation of Reference'' paragraph of AD 99–08–23 (paragraph (g) of AD 99–08–23).

Differences Between the Proposed AD and the Service Information

Boeing Alert Service Bulletin 737–53A1214, Revision 4, dated December 16, 2011, specifies to contact the manufacturer for instructions on how to repair certain conditions, but this proposed AD would require repairing those conditions in one of the following ways:

- In accordance with a method that we approve; or
- Using data that meet the certification basis of the airplane, and that have been approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) whom we have authorized to make those findings.

Costs of Compliance

We estimate that this proposed AD affects 566 airplanes of U.S. registry. We estimate the following costs to comply with this proposed AD:

ESTIMATED COSTS

Action	Labor cost	Parts cost	Cost per product	Cost on U.S. operators
LFEC [retained actions from AD 99–08–23, Amendment 39–11132 (64 FR 19879, April 23, 1999)].	8 work-hours × $85 per hour = $680.	$0	$680	$384,880.
Detailed visual inspection [retained actions from AD 99–08-23, Amendment 39–11132 (64 FR 19879, April 23, 1999)].	2 work-hours × $85 per hour = $170.	0	$170	$96,220.
Detailed, HFEC, and LFEC inspections of the web at the ''Y'' chord of the bulkhead, the web located under the outer circumferential tear strap, the ''Z'' stiffeners at the dome cap, and existing repairs [new proposed action].	Up to 60 work-hours × $85 per hour = $5,100 per inspection cycle.	0	$5,100 per inspection cycle.	$2,886,600 per inspection cycle.

We estimate the following costs to do any necessary on-condition inspections that would be required based on the results of the proposed initial inspection. We have no way of determining the number of aircraft that might need these inspections:

ON-CONDITION COSTS

Action	Labor cost	Parts cost	Cost per product
Detailed and HFEC inspections for oil-canning	1 work-hour × $85 per hour = $85	$0	$85
LFEC or HFEC inspections for cracking	2 work-hours × $85 per hour = $170	0	170

We have received no definitive data that would enable us to provide cost estimates for the crack repairs specified in this proposed AD.

Authority for This Rulemaking

Title 49 of the United States Code specifies the FAA's authority to issue rules on aviation safety. Subtitle I, Section 106, describes the authority of the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the Agency's authority.

We are issuing this rulemaking under the authority described in Subtitle VII, Part A, Subpart III, Section 44701, ''General requirements.'' Under that section, Congress charges the FAA with promoting safe flight of civil aircraft in air commerce by prescribing regulations for practices, methods, and procedures the Administrator finds necessary for safety in air commerce. This regulation is within the scope of that authority because it addresses an unsafe condition that is likely to exist or develop on products identified in this rulemaking action.

Regulatory Findings

We have determined that this proposed AD would not have federalism implications under Executive Order 13132. This proposed AD would not have a substantial direct effect on the States, on the relationship between the national Government and the States, or on the distribution of power and responsibilities among the various levels of government.

For the reasons discussed above, I certify that the proposed regulation:

(1) Is not a ''significant regulatory action'' under Executive Order 12866,

(2) Is not a ''significant rule'' under the DOT Regulatory Policies and Procedures (44 FR 11034, February 26, 1979),

(3) Will not affect intrastate aviation in Alaska, and

(4) Will not have a significant economic impact, positive or negative, on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Incorporation by reference, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

1. The authority citation for part 39 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40113, 44701.

§ 39.13 [Amended]

2. The FAA amends § 39.13 by removing airworthiness directive (AD) 99–08–23, Amendment 39–11132 (64 FR 19879, April 23, 1999), and adding the following new AD:

The Boeing Company: Docket No. FAA–2012–0645; Directorate Identifier 2011–NM–052–AD.

(a) Comments Due Date

The FAA must receive comments on this AD action by August 13, 2012.

(b) Affected ADs

This AD supersedes AD 99–08–23, Amendment 39–11132 (64 FR 19879, April 23, 1999).

(c) Applicability

This AD applies to all The Boeing Company Model 737–100, –200, –200C, –300, –400, and –500 series airplanes; certificated in any category.

(d) Subject

Joint Aircraft System Component (JASC)/Air Transport Association (ATA) of America Code 53, Fuselage.

(e) Unsafe Condition

This AD was prompted by several reports of fatigue cracks in the aft pressure bulkhead. We are issuing this AD to detect and correct such fatigue cracking, which could result in rapid decompression of the fuselage.

(f) Compliance

Comply with this AD within the compliance times specified, unless already done.

(g) Retained Initial Inspection

This paragraph restates the initial inspection required by paragraph (a) of AD 99–08–23, Amendment 39–11132 (64 FR 19879, April 23, 1999). Perform either inspection specified by paragraph (g)(1) or

(g)(2) of this AD at the time specified in paragraph (h) of this AD.

(1) Perform a low frequency eddy current (LFEC) inspection from the aft side of the aft pressure bulkhead to detect discrepancies (including cracking, misdrilled fastener holes, and corrosion) of the web of the upper section of the aft pressure bulkhead at body station 1016 at the aft fastener row attachment to the ''Y'' chord, from stringer 15 left to stringer 15 right, in accordance with Boeing 737 Nondestructive Test Manual D6–37239, Part 6, Section 53–10–54, dated December 5, 1998.

(2) Perform a detailed visual inspection of the aft fastener row attachment to the ''Y'' chord from the forward side of the aft pressure bulkhead to detect discrepancies (including cracking, misdrilled fastener holes, and corrosion) of the entire web of the aft pressure bulkhead at body station 1016.

(h) Retained Compliance Times

This paragraph restates the compliance times specified in paragraph (b) of AD 99–08–23, Amendment 39–11132 (64 FR 19879, April 23, 1999). Perform the inspection required by paragraph (g) of this AD at the time specified in paragraph (h)(1), (h)(2), or (h)(3) of this AD, as applicable.

(1) For airplanes that have accumulated 40,000 or more total flight cycles as of May 10, 1999 (the effective date of AD 99–08–23, Amendment 39–11132 (64 FR 19879, April 23, 1999)): Inspect within 375 flight cycles or 60 days after May 10, 1999, whichever occurs later.

(2) For airplanes that have accumulated 25,000 or more total flight cycles and fewer than 40,000 total flight cycles as of May 10, 1999 (the effective date of AD 99–08–23, Amendment 39–11132 (64 FR 19879, April 23, 1999)): Inspect within 750 flight cycles or 90 days after May 10, 1999, whichever occurs later.

(3) For airplanes that have accumulated fewer than 25,000 total flight cycles as of May 10, 1999 (the effective date of AD 99–08–23, Amendment 39–11132 (64 FR 19879, April 23, 1999)): Inspect prior to the accumulation of 25,750 total flight cycles.

(i) Retained Repetitive Inspections

This paragraph restates the repetitive inspections required by paragraph (c) of AD 99–08–23, Amendment 39–11132 (64 FR 19879, April 23, 1999). Within 1,200 flight cycles after performing the initial inspection required by paragraph (g) of this AD, and thereafter at intervals not to exceed 1,200 flight cycles: Perform either inspection specified by paragraph (g)(1) or (g)(2) of this AD.

(j) Retained Corrective Actions

This paragraph restates the corrective actions required by paragraph (d) of AD 99–08–23, Amendment 39–11132 (64 FR 19879, April 23, 1999). If any discrepancy is detected during any inspection required by paragraph (g), (h), or (i) of this AD: Prior to further flight, accomplish the actions specified by paragraphs (j)(1) and (j)(3) of this AD, and paragraph (j)(2) of this AD, if applicable.

(1) Perform a high frequency eddy current inspection from the forward side of the bulkhead to detect cracking of the web at the ''Y'' chord attachment, around the entire periphery of the ''Y'' chord, in accordance with Boeing 737 Nondestructive Test Manual D6–37239, Part 6, Section 51–00–00, Figure 23, dated November 5, 1995.

(2) If the most recent inspection performed in accordance with paragraph (g) of this AD was not a detailed visual inspection: Accomplish the actions specified by paragraph (g)(2) of this AD. If the inspection was a detailed visual inspection, it is not necessary to repeat that inspection prior to further flight.

(3) Repair any discrepancy such as cracking or corrosion or misdrilled fastener holes using a method approved in accordance with the procedures specified in paragraph (u) of this AD.

(k) New Requirements: Inspections of the Web at the ''Y'' Chord Upper Bulkhead From S–15L to S–15R

At the later of the times specified in paragraphs (k)(1) and (k)(2) of this AD: Do detailed and LFEC inspections of the aft side of the bulkhead web, or do detailed and HFEC inspections from the forward side of the bulkhead, and do all applicable related investigative and corrective actions; in accordance with Part 1 of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1214, Revision 4, dated December 16, 2011, except as required by paragraphs (r)(1) and (r)(3) of this AD. Inspect for cracks, incorrectly drilled fastener holes, and elongated fastener holes. Do all applicable related investigative and corrective actions before further flight. Repeat the inspections at the applicable times specified in table 1 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1214, Revision 4, dated December 16, 2011.

(1) Prior to the accumulation of 25,000 total flight cycles.

(2) Except as required by paragraphs (r)(2) and (r)(4) of this AD, at the later of the times specified in the ''Compliance Time'' column in table 1 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1214, Revision 4, dated December 16, 2011.

(l) New Requirements: Inspections of the Web at the ''Y'' Chord in the Lower Bulkhead From S–15L to S–15R

Except as required by paragraphs (r)(2) and (r)(5) of this AD, at the applicable time specified in table 2 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1214, Revision 4, dated December 16, 2011: Do detailed and eddy current inspections of the web from the forward or aft side of the bulkhead for cracks, incorrectly drilled fasteners, and elongated fasteners, in accordance with Part III of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1214, Revision 4, dated December 16, 2011, except as required by paragraphs (r)(1) and (r)(3) of this AD. If any crack, incorrectly drilled fastener, elongated fastener, or corrosion is found, before further flight, repair the web using a method approved in accordance with the procedures specified in paragraph (u) of this AD. Repeat the inspections at the applicable times specified in table 2 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1214, Revision 4, dated December 16, 2011.

(m) New Requirements: One-Time Inspection Under the Tear Strap

Except as required by paragraphs (r)(2) and (r)(5) of this AD, at the applicable time specified in table 3 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1214, Revision 4, dated December 16, 2011: Do a one-time LFEC inspection for cracks on the aft side of the bulkhead of the web located under the outer circumferential tear strap, or do a one-time HFEC inspection for cracks from the forward side of the bulkhead of the web located under the outer circumferential tear strap, in accordance with Part II of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1214, Revision 4, dated December 16, 2011, except as required by paragraph (r)(1) of this AD. If any cracking is found, before further flight, repair the bulkhead using a method approved in accordance with the procedures specified in paragraph (u) of this AD.

(n) New Requirements: Inspection for Oil-Canning

Except as required by paragraph (r)(2) of this AD, at the applicable time specified in table 4 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1214, Revision 4, dated December 16, 2011: Do a detailed inspection from the aft side of the bulkhead for oil-canning and do all applicable related investigative and corrective actions, in accordance with Part II of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1214, Revision 4, dated December 16, 2011, except as required by paragraph (r)(1) of this AD. Do all related investigative and corrective actions before further flight. Thereafter, repeat the inspection at the applicable times specified in table 4 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1214, Revision 4, dated December 16, 2011. For oil-cans found within the limits specified in Part II of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1214, Revision 4, dated December 16, 2011: In lieu of installing the repair before further flight, at the applicable times specified in table 4 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1214, Revision 4, dated December 16, 2011, do initial and repetitive detailed and HFEC inspections for cracks of the oil-canning and install the repair, in accordance with the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1214, Revision 4, dated December 16, 2011. If any crack is found, before further flight, repair the cracking using a method approved in accordance with the procedures specified in paragraph (u) of this AD. Installing the repair terminates the repetitive inspections for cracks.

(o) New Requirements: Inspection of the Dome Cap at the Center of the Bulkhead

Except as required by paragraphs (r)(2) and (r)(5) of this AD, at the applicable time specified in table 5 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1214, Revision 4, dated December 16, 2011: Do an eddy current inspection to detect any cracking of the dome cap at the center of the bulkhead, and do all applicable corrective actions, in accordance with Part IV of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1214, Revision 4, dated December 16, 2011. Do all corrective actions before further flight. Repeat the inspection at the times specified in table 5 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1214, Revision 4, dated December 16, 2011.

(p) New Requirements: Inspection of the Forward Flange of the ''Z'' Stiffeners at the Dome Cap

Except as required by paragraphs (r)(2) and (r)(5) of this AD, at the applicable time specified in table 6 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1214, Revision 4, dated December 16, 2011: Do an HFEC inspection to detect any cracking of the ''Z'' stiffener flanges at the dome cap in the center of the bulkhead, in accordance with Part V of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1214, Revision 4, dated December 16, 2011, except as required by paragraph (r)(1) of this AD. If any crack is found, before further flight, repair the flanges using a method approved in accordance with the procedures specified in paragraph (u) of this AD. Repeat the inspection at the applicable times specified in table 6 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1214, Revision 4, dated December 16, 2011.

(q) New Requirement: Inspection for Existing Repairs on the Bulkhead

Except as required by paragraph (r)(2) of this AD, at the applicable time specified in table 7 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1214, Revision 4, dated December 16, 2011: Do a detailed inspection of the bulkhead web and stiffeners for existing repairs, in accordance with Part VI of the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1214, Revision 4, dated December 16, 2011, except as required by paragraph (r)(1) of this AD.

(1) If any repair identified in the ''Condition'' column of table 8 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1214, Revision 4, dated December 16, 2011, is found and the ''Reference'' column refers to Appendix A, B, C, or D of that service bulletin: At the applicable times specified in table 8 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1214, Revision 4, dated December 16, 2011, except as required by paragraph (r)(2) of this AD, do a HFEC inspection or a LFEC inspection of the web for cracking, in accordance with Appendix A, B, C, or D, as applicable, of Boeing Alert Service Bulletin 737–53A1214, Revision 4, dated December 16, 2011. If any cracking is found, before further flight, repair using a method approved in accordance with the procedures specified in paragraph (u) of this AD. Repeat the inspections, thereafter, at the applicable intervals specified in table 8 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1214, Revision 4, dated December 16, 2011.

(2) If any repair identified in the ''Condition'' column of table 8 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1214, Revision 4, dated December 16, 2011, is found and the ''Reference'' column refers to Appendix E of that service bulletin: At the applicable times specified in table 8 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1214, Revision 4, dated December 16, 2011, except as required by paragraph (r)(2) of this AD, remove the repair and replace with a new repair, in accordance with Appendix E of Boeing Alert Service Bulletin 737–53A1214, Revision 4, dated December 16, 2011.

(3) If any non-SRM (structural repair manual) repair is found and the repair does not have FAA-approved damage tolerance inspections, except as required by paragraph (r)(2) of this AD, at the applicable time specified in table 7 of Paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1214, Revision 4, dated December 16, 2011: Contact the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO, for damage tolerance inspections. Do those damage tolerance inspections at the times given using a method approved in accordance with the procedures specified in paragraph (u) of this AD.

(r) Exceptions to the Service Bulletin

(1) Where Boeing Alert Service Bulletin 737–53A1214, Revision 4, dated December 16, 2011, specifies to contact Boeing for repair instructions: Before further flight, repair using a method approved in accordance with the procedures specified in paragraph (u) of this AD.

(2) Where Boeing Alert Service Bulletin 737–53A1214, Revision 4, dated December 16, 2011, specifies a compliance time ''after the date of Revision 1 to this service bulletin,'' ''from the date of Revision 3 of this service bulletin,'' ''after the date of Revision 3 to this service bulletin,'' or ''of the effective date of AD 99–08–23,'' this AD requires compliance within the specified compliance time after the effective date of this AD.

(3) Access and restoration procedures specified in the Accomplishment Instructions of Boeing Alert Service Bulletin 737–53A1214, Revision 4, dated December 16, 2011, are not required by this AD. Operators may do those procedures following their maintenance practices.

(4) Where table 1 of paragraph 1.E., ''Compliance'' of Boeing Alert Service Bulletin 737–53A1214, Revision 4, dated December 16, 2011, specifies a compliance time relative to actions done ''in accordance with paragraph (a)(2) of AD 99–08–23,'' this AD requires compliance within the specified compliance time relative to actions specified in paragraph (g)(2) of this AD.

(5) Where the Condition columns in tables 2, 3, 5, and 6 of paragraph 1.E., ''Compliance,'' of Boeing Alert Service Bulletin 737–53A1214, Revision 4, dated December 16, 2011, refer to total flight cycles, this AD applies to the airplanes with the specified total flight cycles as of the effective date of this AD.

(s) Terminating Action

Accomplishment of the requirements of paragraphs (k) through (q) of this AD terminates the requirements of paragraphs (g) through (j) of this AD.

(t) Credit for Previous Actions

This paragraph provides credit for the actions required by paragraphs (k) through (s) of this AD, if the actions were performed before the effective date of this AD using the service bulletins specified in paragraphs (t)(1) through (t)(4) of this AD.

(1) Boeing Alert Service Bulletin 737–53A1214, dated June 17, 1999.

(2) Boeing Alert Service Bulletin 737–53A1214, Revision 1, dated June 22, 2000.

(3) Boeing Alert Service Bulletin 737–53A1214, Revision 2, dated May 24, 2001.

(4) Boeing Alert Service Bulletin 737–53A1214, Revision 3, dated January 19, 2011.

(u) Alternative Methods of Compliance (AMOCs)

(1) The Manager, Seattle ACO, FAA, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. In accordance with 14 CFR 39.19, send your request to your principal inspector or local Flight Standards District Office, as appropriate. If sending information directly to the manager of the ACO, send it to the attention of the person identified in the Related Information section of this AD. Information may be emailed to: *9-ANM-Seattle-ACO-AMOC-Requests@faa.gov.*

(2) Before using any approved AMOC, notify your appropriate principal inspector, or lacking a principal inspector, the manager of the local flight standards district office/certificate holding district office.

(3) An AMOC that provides an acceptable level of safety may be used for any repair required by this AD if it is approved by the Boeing Commercial Airplanes Organization Designation Authorization (ODA) that has been authorized by the Manager, Seattle ACO to make those findings. For a repair method to be approved, the repair must meet the certification basis of the airplane, and the approval must specifically refer to this AD.

(4) AMOCs approved previously in accordance with AD 99–08–23, Amendment 39–11132 (64 FR 19879, April 23, 1999), are approved as AMOCs for the corresponding provisions of this AD.

(v) Related Information

(1) For more information about this AD, contact Alan Pohl, Aerospace Engineer, Airframe Branch, ANM–120S, FAA, Seattle Aircraft Certification Office, 1601 Lind Avenue SW., Renton, Washington 98057–3356; phone: (425) 917–6440; fax: (425) 917–6590; email: *alan.pohl@faa.gov.*

(2) For service information identified in this proposed AD, contact Boeing Commercial Airplanes, Attention: Data & Services Management, P.O. Box 3707, MC 2H–65, Seattle, Washington 98124–2207; telephone 206–544–5000, extension 1; fax 206–766–5680; Internet *https://www.myboeingfleet.com.* You may review copies of the referenced service information at the FAA, Transport Airplane Directorate, 1601 Lind Avenue SW., Renton, Washington. For information on the availability of this material at the FAA, call 425–227–1221.

Issued in Renton, Washington, on June 18, 2012.

John P. Piccola,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 2012–15601 Filed 6–27–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

Docket No. FAA–2011–1181; Airspace Docket No. 11–ANM–20

Proposed Amendment of Class E Airspace; Boise, ID

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Supplemental notice of proposed rulemaking (SNPRM).

SUMMARY: The FAA is issuing a SNPRM for the notice of proposed rulemaking (NPRM) published on February 7, 2012, in order to elicit comments regarding removing reference to the navigation aid in the legal description of the Class E airspace area designated as an extension at Boise Air Terminal (Gowen Field), Boise, ID. The NPRM only proposed an amendment of Class E airspace extending upward from 700 feet above the surface at the airport, as well as adjusting the geographic coordinates of the airport. The FAA is proposing this amendment to enhance safety in the Boise, ID, airspace area.

DATES: Comments must be received on or before August 13, 2012.

ADDRESSES: Send comments on this proposal to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590; telephone (202) 366–9826. You must identify FAA Docket No. FAA–2011–1181; Airspace Docket No. 11–ANM–20, at the beginning of your comments. You may also submit comments through the Internet at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Eldon Taylor, Federal Aviation Administration, Operations Support Group, Western Service Center, 1601 Lind Avenue SW., Renton, WA 98057; telephone (425) 203–4537.

SUPPLEMENTARY INFORMATION:

History

On February 7, 2012, the FAA published a NPRM to amend Class E airspace, extending upward from 700 feet or more above the surface, at Boise Air Terminal (Gowen Field), Boise, ID, UT (77 FR 6026). The comment period closed March 23, 2012. No comments were received. Subsequent to publication, it was discovered by National Aeronautical Navigation Services (NANS) that the legal description for the Boise, ID, Class E airspace area designated as an extension needed editing to better describe the airspace. The FAA seeks comments on this SNPRM.

Comments Invited

Interested parties are invited to participate in this proposed rulemaking by submitting such written data, views, or arguments, as they may desire. Comments that provide the factual basis supporting the views and suggestions presented are particularly helpful in developing reasoned regulatory decisions on the proposal. Comments are specifically invited on the overall regulatory, aeronautical, economic, environmental, and energy-related aspects of the proposal.

Communications should identify both docket numbers (FAA Docket No. FAA 2011–1181 and Airspace Docket No. 11–ANM–20) and be submitted in triplicate to the Docket Management System (see **ADDRESSES** section for address and phone number). You may also submit comments through the Internet at *http://www.regulations.gov.*

Commenters wishing the FAA to acknowledge receipt of their comments on this action must submit with those comments a self-addressed stamped postcard on which the following statement is made: ''Comments to FAA Docket No. FAA–2011–1181 and Airspace Docket No. 11–ANM–20.'' The postcard will be date/time stamped and returned to the commenter.

All communications received on or before the specified closing date for comments will be considered before taking action on the proposed rule. The proposal contained in this action may be changed in light of comments received. All comments submitted will be available for examination in the public docket both before and after the closing date for comments. A report summarizing each substantive public contact with FAA personnel concerned with this rulemaking will be filed in the docket.

Availability of NPRMs

An electronic copy of this document may be downloaded through the Internet at *http://www.regulations.gov.* Recently published rulemaking documents can also be accessed through the FAA's Web page at *http://www.faa.gov/airports_airtraffic/air_traffic/publications/airspace_amendments/.*

You may review the public docket containing the proposal, any comments received, and any final disposition in person in the Dockets Office (see the **ADDRESSES** section for the address and phone number) between 9:00 a.m. and 5:00 p.m., Monday through Friday, except federal holidays. An informal docket may also be examined during normal business hours at the Northwest Mountain Regional Office of the Federal Aviation Administration, Air Traffic Organization, Western Service Center, Operations Support Group, 1601 Lind Avenue SW., Renton, WA 98057.

Persons interested in being placed on a mailing list for future NPRMs should contact the FAA's Office of Rulemaking, (202) 267–9677, for a copy of Advisory Circular No. 11–2A, Notice of Proposed Rulemaking Distribution System, which describes the application procedure.

The Supplemental Proposal

The FAA is proposing an amendment to Title 14 Code of Federal Regulations (14 CFR) part 71 by amending the Class E airspace area designated as an extension, at Boise Air Terminal (Gowen Field), Boise, ID. The legal description would be rewritten to better describe the airspace area by removing reference to the Boise VHF–Omni-Directional Radio Range Tactical Air Navigational Aid (VORTAC). Class E airspace extending upward from 700 feet above the surface would be reconfigured due to the decommissioning of the Donnelly Tactical Air Navigational Aid (TACAN). The geographic coordinates of the airport would be adjusted in accordance with the FAA's aeronautical database. This action would enhance the safety and management of IFR operations at the airport.

Class E airspace designations are published in paragraph 6003 and 6005, respectively, of FAA Order 7400.9V, dated August 9, 2011, and effective September 15, 2011, which is incorporated by reference in 14 CFR part 71.1. The Class E airspace designation listed in this document will

be published subsequently in this Order.

The FAA has determined that this proposed regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this proposed regulation; (1) is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under DOT Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is certified that this proposed rule, when promulgated, would not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

The FAA's authority to issue rules regarding aviation safety is found in Title 49 of the U.S. Code. Subtitle 1, Section 106, describes the authority for the FAA Administrator. Subtitle VII, Aviation Programs, describes in more detail the scope of the agency's authority. This rulemaking is promulgated under the authority described in Subtitle VII, Part A, Subpart I, Section 40103. Under that section, the FAA is charged with prescribing regulations to assign the use of the airspace necessary to ensure the safety of aircraft and the efficient use of airspace. This regulation is within the scope of that authority as it would propose controlled airspace at Boise Air Terminal (Gowen Field), Boise, ID.

This proposal will be subject to an environmental analysis in accordance with FAA Order 1050.1E, ''Environmental Impacts: Policies and Procedures'' prior to any FAA final regulatory action.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

The Proposed Amendment

Accordingly, pursuant to the authority delegated to me, the Federal Aviation Administration proposes to amend 14 CFR Part 71 as follows:

PART 71—DESIGNATION OF CLASS A, B, C, D AND E AIRSPACE AREAS; AIR TRAFFIC SERVICE ROUTES; AND REPORTING POINTS

1. The authority citation for 14 CFR Part 71 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120; E.O. 10854, 24 FR 9565, 3 CFR, 1959–1963 Comp., p. 389.

§ 71.1 [Amended]

2. The incorporation by reference in 14 CFR Part 71.1 of the Federal Aviation Administration Order 7400.9V, Airspace Designations and Reporting Points, dated August 9, 2011, and effective September 15, 2011 is amended as follows:

Paragraph 6003 Class E airspace areas designated as an extension.

* * * * *

ANM ID E3 Boise, ID [Amended]

Boise Air Terminal (Gowen Field), ID
(Lat. 43°33′52″ N., long. 116°13′22″ W.)

That airspace extending upward from the surface within 3.5 miles each side of the Boise Air Terminal 300° bearing extending from the 5-mile radius of the Boise Air Terminal to 9.5 miles northwest of the airport; and within .5 miles west and 5.6 miles east of the Boise Air Terminal 179° bearing extending from the 5-mile radius of the airport to 6.1 miles south of the airport; and that airspace within 4.3 miles each side of the Boise Air Terminal 114° bearing extending from the 5-mile radius of the airport to 11.7 miles southeast of the airport.

Paragraph 6005 Class E airspace areas extending upward from 700 feet or more above the surface of the earth.

* * * * *

ANM ID E5 Boise, ID [Amended]

Boise Air Terminal (Gowen Field), ID
(Lat. 43°33′52″ N., long. 116°13′22″ W.)

That airspace extending upward from 700 feet above the surface bounded by a line beginning at lat. 43°56′00″ N., long. 116°33′04″ W.; to lat. 43°51′15″ N., long. 116°25′03″ W., thence via the 19.3-mile radius of the Boise Air Terminal (Gowen Field), clockwise to long. 116°14′03″ W.; to lat. 43°45′00″ N., long. 116°14′03″ W.; to lat. 43°31′00″ N., long. 115°52′03″ W.; to lat. 43°20′00″ N., long. 115°58′03″ W.; to lat. 43°25′00″ N., long. 116°25′03″ W.; to lat. 43°27′00″ N., long. 116°29′03″ W.; to lat. 43°25′12″ N., long. 116°32′23″ W.; to lat. 43°29′25″ N., long. 116°37′53″ W.; to lat. 43°32′45″ N., long. 116°49′04″ W.; to lat. 43°37′35″ N., long. 116°47′04″ W.; to lat. 43°42′00″ N., long. 116°57′04″ W., thence to the point of beginning; that airspace extending upward from 1,200 feet above the surface within the 30.5-mile radius of the airport beginning at the 122° bearing of the airport, thence via a line to the intersection of the 34.8-mile radius of the airport and the 224° bearing of the airport, thence clockwise along the 34.8-mile radius of the airport to that airspace 7 miles each side of the 269° bearing of the airport extending from the 34.8-mile radius to 49.6 miles west of the airport, and within 7 miles northeast and 9.6 miles southwest of the 295° bearing of the airport extending from the 34.8-mile radius to 65.3 miles northwest of the airport, to lat. 44°00′27″ N., long. 117°10′58″ W., thence along the 042° bearing to V–253, thence south along V–253, thence along the 30.5-mile radius of the airport to the point of beginning; that airspace southeast of the airport extending upward from 9,000 feet MSL bounded on the north by V–444, on the east by V–293, on the south by V–330, on the southwest by V–4 and on the west by the 30.5-mile radius of the airport; that airspace northeast of the airport extending upward from 11,500 feet MSL, bounded on the northeast by V–293, on the south by V–444, on the southwest by the 30.5-mile radius of the airport, and on the west by V–253.

Issued in Seattle, Washington, on June 19, 2012.

Robert Henry

Acting Manager, Operations Support Group, Western Service Center.

[FR Doc. 2012–15910 Filed 6–27–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

International Trade Administration

19 CFR Part 351

Proposed Modification to Regulation Concerning the Use of Market Economy Input Prices in Nonmarket Economy Proceedings

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

ACTION: Proposed rule; request for comments.

SUMMARY: The Department of Commerce (''Department'') proposes to modify its regulation which states that the Department normally will use the price that a nonmarket economy (''NME'') producer pays to a market economy supplier when a factor of production is purchased from a market economy supplier and paid for in market economy currency, in the calculation of normal value (''NV'') in antidumping proceedings involving NME countries. The rule, if adopted, would establish (1) a requirement that the input at issue be produced in one or more market economy countries, and (2) a revised threshold requiring that ''substantially all'' of an input be purchased from one or more market economy suppliers before the Department would use the purchase price paid to value the entire factor of production. Through this proposed modification, the Department is announcing its proposed definition of ''substantially all'' to be 85 percent of the total purchased volume of the particular input. The Department invites public comment on this proposed change.

DATES: To be assured of consideration, comments must be received no later than July 30, 2012.

ADDRESSES: All comments must be submitted through the Federal eRulemaking Portal at *http://www.Regulations.gov*, Docket No. ITA–2012–0002, and the Department prefers this means of submitting comments. However, if a commenter does not have access to the Internet, as an alternative, he or she may submit the original and two copies of each set of comments by mail or hand delivery/courier. All comments should be addressed to Paul Piquado, Assistant Secretary for Import Administration, Room 1870, Department of Commerce, 14th Street and Constitution Ave. NW., Washington, DC 20230. The comments should be identified by Regulation Identifier Number (RIN) 0625–AA89.

The Department will consider all comments received before the close of the comment period. The Department will not accept comments accompanied by a request that part or all of the material be treated confidentially because of its business proprietary nature or for any other reason. All comments responding to this notice will be a matter of public record and will be available for inspection at Import Administration's Central Records Unit (Room 7046 of the Herbert C. Hoover Building) and online at *http://www.Regulations.gov* and on the Department's Web site at *http://www.trade.gov/ia/.*

Any questions concerning file formatting, document conversion, access on the Internet, or other electronic filing issues should be addressed to Andrew Lee Beller, Import Administration Webmaster, at (202) 482–0866, *email address: webmaster-support@ita.doc.gov.*

FOR FURTHER INFORMATION CONTACT: Wendy Frankel at (202) 482–5849 or Scott McBride at (202) 482–6292.

SUPPLEMENTARY INFORMATION:

Background

In antidumping proceedings involving NME countries, the Department calculates NV by valuing the NME producer's factors of production, to the extent possible, using prices from a market economy that is at a comparable level of economic development and that is also a significant producer of comparable merchandise. *See* section 773(c)(4) of the Tariff Act of 1930, as amended (''the Act''). The goal of this surrogate factor valuation is to use the ''best available information'' to determine NV. *See* section 773(c)(1) of the Act; *see also Dorbest Ltd, et al.* v. *United States,* 604 F.3d 1363 (Fed. Cir. 2010). Pursuant to 19 CFR 351.408(c)(1), as currently written, when an NME producer purchases inputs from market economy suppliers and pays for those purchases in a market economy currency, the Department normally uses the weighted-average price paid by the NME producer for these inputs to value the input in question, where possible. When a portion of the input is purchased from a market economy supplier and the remainder from a nonmarket economy supplier, the Department will normally use the price paid for the input sourced from market economy suppliers to value all of the input, provided that the volume of the market economy input as a share of total purchases from all sources is ''meaningful.'' *See Antidumping Duties; Countervailing Duties, Final Rule,* 62 FR 27296, 27366 (May 19, 1997); *Shakeproof Assembly Components Div. of Ill. Tool Works, Inc.* v. *United States,* 268 F. 3d 1376 (Fed. Cir. 2001).

In *Antidumping Methodologies: Market Economy Inputs, Expected Non-Market Economy Wages, Duty Drawback; and Request for Comments,* 71 FR 61716 (October 19, 2006), the Department instituted a rebuttable presumption that market economy input prices are the best available information for valuing all of an input when the total volume of the input purchased by the respondent from all market economy sources during the period of investigation or review exceeds 33 percent of the total volume of the input purchased from all sources during the period. Under this practice, unless case-specific facts provide adequate grounds to rebut the Department's presumption, the Department uses the weighted-average market economy purchase price to value all of the input. Alternatively, when the volume of an NME firm's purchases of a particular input from market economy suppliers during the period of investigation/review does not exceed this 33 percent threshold, the Department weight-averages the (weighted-average) market economy purchase price and an appropriate surrogate value,[1] using as weights the relative quantities of the input imported and purchased from domestic sources.

In determining whether market economy purchases meet this 33 percent threshold, the Department compares the volume that the respondent purchased from market economy sources during the period of investigation or review with the respondent's total purchases during the period. When a firm has made market economy input purchases that may have been dumped (*e.g.,* the country covered by our proceeding has an antidumping measure on the input from the source country) or from a country that the Department has a ''reason to believe or suspect'' maintains general export subsidies, are not *bona fide,* or are otherwise not acceptable for use in a dumping calculation (*i.e.* if the purchases are from an affiliate and are not made at arm's length), the Department excludes them from the numerator of the ratio to ensure a fair determination of whether valid market economy purchases meet the 33 percent threshold.

The Department now proposes to revise 19 CFR 351.408(c)(1) to establish that where substantially all (*i.e.,* 85 percent or more) of an input is purchased from market economy suppliers (from one or more market economy countries) as a share of total purchases of that input from all sources during a particular period of investigation or review, the Department will normally use the weighted-average purchase price paid to the market economy supplier(s) to value all of the input. When the 85 percent threshold is not met, the Department will weight-average the market economy purchase price(s) and an appropriate surrogate value, using the respective quantities of the input sourced, from market economy and nonmarket economy suppliers. One reason for this proposed revision is a concern that, when market economy purchases of an input do not account for substantially all purchases of the input (imported and domestically supplied), a market economy input price is not the best available information, particularly since it would not be possible to determine objectively whether the price for the input would have been the same had the firm purchased solely from market economy suppliers. The Department has confidence in the market economy purchase price(s) only when the proportion of the total volume of the input that is sourced from market economies is substantially all (*i.e.,* for purposes of this provision, 85 percent or more) of the total purchases of that particular input.

The Department also proposes to add a requirement to 19 CFR 351.408(c)(1) that the market economy input at issue actually be produced in one or more market economy countries, and not just sold through market economy countries, to address concerns that the pricing of an NME-produced input by a market economy supplier (or reseller) can be

[1] The Department will choose a surrogate value from a market economy country which is at a level of economic development comparable to that of the nonmarket economy country and is a significant producer of comparable merchandise.

distorted by NME cost or supply factors. For example, NME input prices that reflect non-profit objectives or low or suppressed capital, land, energy or other factors of production costs in the NME country can be reflected in, and therefore distort, the prices charged by market economy suppliers or resellers of that input. That is not to say that prices of market economy-produced inputs can never be distorted, but only that they are normally not reflective of systemic, economy-wide distortions, as are NME prices.

Explanation of Proposed Modification to 19 CFR 351.408

The second sentence of 19 CFR 351.408(c)(1) states that ''[w]here a factor is purchased from a market economy supplier and paid for in a market economy currency, the Secretary normally will use the price paid to the market economy supplier.'' The Department proposes modifying the existing sentence and adding two parts to that sentence. First, the Department proposes adding ''produced in one or more market economy countries'' after ''[w]here a factor is.'' Second, the Department proposes changing the subsequent clauses to read ''purchased from one or more market economy suppliers and paid for in market economy currency, the Secretary normally will use the price(s) paid to the market economy supplier(s).'' Third, the Department proposes adding the following to the end of that sentence: ''If substantially all of the total volume of the factor is purchased from one or more market economy suppliers. For purposes of this provision, the Secretary defines the term 'substantially all' to be 85 percent or more of the total volume of purchases of the factor used in the production of subject merchandise.'' We view these additions as necessary to specify which inputs qualify and useful to clearly define the proposed threshold.

The current third sentence of 19 CFR 351.408(c)(1) states ''In those instances where a portion of the factor is purchased from a market economy supplier and the remainder from a nonmarket economy supplier, the Secretary normally will value the factor using the price paid to the market economy supplier.'' The Department proposes deleting ''a portion of the factor'' from the beginning of that sentence and replacing it with ''less than substantially all of the total volume of the factor.'' The Department also proposes adding ''produced in one or more market economy countries and'' before ''purchased from a market economy supplier,'' and changing the latter clause to read ''purchased from one or more market economy suppliers.'' In addition, the Department proposes deleting ''and the remainder from a nonmarket economy supplier.'' The Department also proposes deleting ''value the factor using the price paid to the market economy supplier'' at the end of that sentence. The Department is replacing these passages with ''weight-average the actual price(s) paid for the market economy portion and the surrogate value for the nonmarket economy portion by their respective quantities.'' We view these changes as necessary to explain the methodology the Department will use when a respondent purchases less than substantially all of the input from market economy suppliers or only part of the input is produced in one or moremarket economy countries.

Classification

Executive Order 12866

This rule has been determined to be not significant for purposes of Executive Order 12866.

Initial Regulatory Flexibility Act (IRFA)

Pursuant to Section 603 of the Regulatory Flexibility Act, the Department has prepared the following IRFA to analyze the potential impact that this proposed rule, if adopted, would have on small entities.

Description of the Reasons Why Action Is Being Considered

The policy reasons for issuing this proposed rule are discussed in the Background section of this document, and are not repeated here.

Statement of the Objectives of, and Legal Basis for, the Proposed Rule; Identification of All Relevant Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rule

This proposed rule is intended to revise 19 CFR 351.408(c)(1) to establish that in valuing factors of production in antidumping proceedings involving nonmarket economies, if substantially all of an input is purchased from market economy suppliers as a share of total purchases of that input from all sources during the investigation or review period, the Department will use the weighted-average purchase price paid to market economy suppliers to value all of the input. Further, the proposed rule is also intended to add a requirement to 19 CFR 351.408(c)(1) that the market economy input at issue actually be produced in one or more market economy countries, and not just be sold through market economy countries.

The legal basis for this rule is 5 U.S.C. 301; 19 U.S.C. 1202 note; 19 U.S.C. 1303 note; and 19 U.S.C. 1671 *et seq.* No other Federal rules duplicate, overlap or conflict with this proposed rule.

Number and Description of Small Entities Regulated by the Proposed Rule

The proposed rule regulates entities that are: (1) Producing merchandise in a nonmarket economy that is exported to the United States and is subject to an antidumping duty order; (2) being individually examined in an antidumping proceeding; and (3) claiming that market economy purchase prices should be used to value a factor of production in the calculation of the exporter's weighted average dumping margin and antidumping duty assessment rate. The resulting antidumping duty assessment rate determines the amount of antidumping duties to be paid by importers of record of the subject merchandise imported into the United States.

Entities that produce and export merchandise subject to U.S. antidumping duty orders are rarely U.S. companies. Some producers and exporters of subject merchandise do have U.S. affiliates, some of which may be considered small entities under the appropriate Small Business Administration (SBA) small business size standard. The Department is not able to estimate the number of exporters and producer domestic affiliates that may be considered small entities, but anticipates, based on its experience in these proceedings, that the number will not be substantial.

Importers may be U.S. or foreign companies, and some of these entities may be considered small entities under the appropriate SBA small business size standard. There are no means by which the Department can readily determine whether or not a substantial number of small importers will be impacted by this rule, as the effect of the Department's change in methodology will differ from proceeding to proceeding, on a case-by-case basis, and the importers depositing cash deposits and/or paying antidumping duties will also differ from proceeding to proceeding.

Description of the Projected Reporting, Recordkeeping, and Other Compliance Requirements of the Proposed Rule

The proposed rule will require exporters or producers to establish on the administrative record that 85 percent or more of an input has been purchased from market economy suppliers from one or more market economy countries as a share of total purchases of that input from all sources (domestic and foreign) during a particular period of investigation or

administrative review, if the exporter or producer wishes the Department to use the weighted-average purchase price paid to the market economy supplier(s) to value all of the input (from all sources). Furthermore, the proposed rule will require that exporters or producers also establish on the administrative record that the market economy input at issue was produced in a market economy, rather than merely being sold through a market economy supplier. There will be no additional reporting or recordkeeping burdens on U.S. importers as a result of this rule.

Description of Any Significant Alternatives to the Proposed Rule That Accomplish the Stated Objectives of Applicable Statutes and That Minimize Any Significant Economic Impact of the Proposed Rule on Small Entities

As required by 5 U.S.C. 603(c), the Department's analysis considered significant alternatives. The alternatives which the Department considered are: (1) The preferred alternative of modifying 19 CFR 351.408(c)(1) to (a) establish that if substantially all of an input is purchased from market economy suppliers as a share of total purchases of that input from all sources during the investigation or review period, the Department will use the weighted-average purchase price paid to market economy suppliers to value all of the input and (b) require that the market economy input at issue actually be produced in one or more market economy countries, and not just be sold through market economy countries; (2) modify the regulation with respect to (1)(a), but not (1)(b); (3) modify the regulation with respect to (1)(b), but not (1)(a); or (4) maintain the *status quo* with respect to the valuation of inputs purchased from a market economy supplier and paid for in a market economy currency.

Factors of production for the subject merchandise will be assigned a value in the calculation of the weighted average dumping margin and antidumping duty assessment rate, whether the assigned value is a market economy purchase price, a surrogate value from a market economy country, or a combination of the two. Accordingly, the economic impact of providing information and argument to the Department in relation to the valuation of the factors of production for entities individually examined in the Department's antidumping proceedings is roughly equivalent under each of the above-noted alternatives.

In relation to the possible impact of the alternatives on the amount of antidumping duties to be paid by importers of record of the subject merchandise, the value of a factor of production is one of numerous elements in the calculation of a weighted average margin of dumping. Whether a particular factor value will have any impact on the resulting weighted average dumping margin is not certain. To the extent that a small U.S. importer will be economically impacted by this rule, it will only be through an increase or decrease in the cash deposits and duties posted by that importer as a result in the change of a weighted average dumping margin. In those circumstances where a change in the value of an input as a result of this regulatory modification does have an impact on the weighted average dumping margin, the impact to the small U.S. importer will depend on whether the publicly sourced value is higher or lower than the market economy purchase price(s).

In this regard, the Department is required by 19 U.S.C. 1677b(c)(1)(b) to rely on the best information available for valuing the producer's factors of production. The proposed modification to the regulation addresses the Department's concerns that a market economy input price may not be the best available information when: (1) Market economy purchases of an input are insufficient in proportion to NME purchases for the Department to objectively conclude that the purchase price for the input would have been the same had the firm purchased solely from market economy suppliers and (2) the reported pricing of an NME-produced input purchased from a market economy supplier (or reseller) can be distorted by NME cost or supply factors. Accordingly, the Department considers that the first, preferred alternative is the only alternative that fully addresses the Department's policy concerns explained in the Background section of this Notice.

Paperwork Reduction Act

This rule does not contain a collection of information for purposes of the Paperwork Reduction Act of 1980, as amended (44 U.S.C. 3501 *et seq.*)

List of Subjects in 19 CFR Part 351

Administrative practice and procedure, Antidumping, Business and industry, Cheese, Confidential business information, Countervailing duties, Freedom of information, Investigations, Reporting and recordkeeping requirements.

Dated: June 15, 2012.

Paul Piquado,

Assistant Secretary for Import Administration.

For the reasons stated, 19 CFR part 351 is proposed to be amended as follows:

PART 351—ANTIDUMPING AND COUNTERVAILING DUTIES

1. The authority citation for 19 CFR part 351 continues to read as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 1202 note; 19 U.S.C. 1303 note; 19 U.S.C. 1671 *et seq.;* and 19 U.S.C. 3538.

2. In § 351.408, revise paragraph (c)(1) to read as follows:

Information used to value factors. The Secretary normally will use publicly available information to value factors. However, where a factor is produced in one or more market economy countries, purchased from one or more market economy suppliers and paid for in market economy currency, the Secretary normally will use the price(s) paid to the market economy supplier(s) if substantially all of the total volume of the factor is purchased from the market economy supplier(s). For purposes of this provision, the Secretary defines the term ''substantially all'' to be 85 percent or more of the total purchase volume of the factor used in the production of subject merchandise. In those instances where less than substantially all of the total volume of the factor is produced in one or more market economy countries and purchased from one or more market economy suppliers, the Secretary normally will weight-average the actual price(s) paid for the market economy portion and the surrogate value for the nonmarket economy portion by their respective quantities.

[FR Doc. 2012–15436 Filed 6–27–12; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF STATE

22 CFR Parts 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, and 130

[Public Notice [7927]]

Export Control Reform Transition Plan

Correction

In proposed rule document 2012–15070 appearing on pages 37346–37349 in the issue of Thursday, June 21, 2012 make the following correction:

On page 37346, in the third column, in the document's heading, the CFR parts affected should read ''22 CFR Parts

120, 121, 122, 123, 124, 125, 126, 127, 128, 129, and 130''.

[FR Doc. C1–2012–15070 Filed 6–27–12; 8:45 am]

BILLING CODE 1505–01–D

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2012–0141; FRL–9694–1]

Approval and Promulgation of Implementation Plans; Revisions to the Nevada State Implementation Plan; Stationary Source Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing a limited approval and limited disapproval of revisions to the applicable state implementation plan for the State of Nevada. The submitted revisions include new or amended State rules governing applications for, and issuance of, permits for stationary sources, but not including review and permitting of major sources and major modifications under parts C and D of title I of the Clean Air Act. EPA is proposing this action under the Clean Air Act obligation to take action on State submittals of revisions to state implementation plans. The intended effect of the limited approval and limited disapproval action is to update the applicable state implementation plan with current State rules with respect to permitting, and to set the stage for remedying deficiencies in the permitting rules with respect to certain new or revised national ambient air quality standards. If finalized as proposed, this limited disapproval action would not trigger sanctions under section 179 of the Clean Air Act but would trigger an obligation on EPA to promulgate a Federal Implementation Plan unless the State of Nevada corrects the deficiencies, and EPA approves the related plan revisions within two years of the final action.

DATES: Written comments must be received on or before July 30, 2012.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2012–0141, by one of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov*. Follow the on-line instructions.

2. *Email: R9airpermits@epa.gov*.

3. *Mail or deliver:* Gerardo Rios (AIR–3), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or email. *www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send email directly to EPA, your email address will be automatically captured and included as part of the public comment. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: The index to the docket for this action is available electronically at *www.regulations.gov* and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Laura Yannayon, EPA Region IX, 75 Hawthorne Street (AIR–3), San Francisco, CA 94105, phone number (415) 972–3534, fax number (415) 947–3579, or by email at *yannayon.laura@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, the terms ''we,'' ''us,'' and ''our'' refer to EPA.

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I. The State's Submittals

A. Which rules did the state submit?

On January 24, 2011, the Nevada Division of Environmental Protection (NDEP) submitted a revision to the Nevada State Implementation Plan (SIP) to EPA for approval or disapproval under section 110(k) of the Clean Air Act (CAA or ''Act''). NDEP's submittal includes certain new or amended State rules [i.e., certain sections of Nevada Administrative Code (NAC)] that govern applications for, and issuance of, permits for stationary sources [a process referred to herein as ''New Source Review'' (NSR) and rules referred to herein as ''NSR rules''].[1] NDEP's January 24, 2011 submittal also includes a rescission of one definition from the existing SIP (the definition of ''special mobile equipment''). In addition to the NSR rules, NDEP's January 24, 2011 submittal contains evidence of public notice and adoption of the rules, or amendments to the rules, since March 2006. Evidence of public notice and adoption of the NSR rules or amendments that predate March 2006 were previously submitted by NDEP in SIP revision submittals dated February 16, 2005 and January 12, 2006. By letter dated February 17, 2011, we found that the January 24, 2011 submittal fulfills the completeness criteria in 40 CFR part 51, appendix V.

On November 9, 2011, NDEP replaced one of the NSR rules, that had been submitted on January 24, 2011 (NAC 445B.3457) and that had been submitted as a temporary regulation, with the version of the rule that had been adopted by the State Environmental Commission (SEC) as a permanent regulation, and enclosed the related evidence of public notice and adoption for the permanent regulation.

On May 21, 2012, NDEP submitted a small set of additional NSR-related rules [and one definition from the Nevada Revised Statutes (NRS)] to supplement the NSR rules submitted on January 24, 2011 and November 9, 2011. NDEP's May 21, 2012 submittal also includes certain clarifications concerning the previously-submitted NSR rules, and documentation supporting the selection

[1] We note that the stationary source permitting rules that are the subject of this proposed rule are not intended to satisfy the requirements for pre-construction review and permitting of major sources or major modifications under part C (''Prevention of Significant Deterioration of air quality'') or part D (''Plan requirements for nonattainment areas'') of title I of the Clean Air Act.

of emissions-based thresholds for triggering the public notice requirements for draft permits for certain source modifications.

Table 1 below lists the rules (and one statutory definition) that were submitted by NDEP on January 24, 2011, November 9, 2011, and May 21, 2012 and on which EPA is proposing action in this document.

TABLE 1—SUBMITTED RULES (AND STATUTORY DEFINITION) GOVERNING NSR FOR STATIONARY SOURCES UNDER NDEP JURISDICTION

Submitted rule	Title	Adoption date	Submittal date
NAC 445B.003	''Adjacent properties'' defined	11/03/93	01/24/11
NAC 445B.0035	''Administrative revision to a Class I operating permit'' defined	08/19/04	01/24/11
NAC 445B.007	''Affected state'' defined	11/03/93	01/24/11
NAC 445B.013	''Allowable emissions'' defined	10/04/05	01/24/11
NAC 445B.014	''Alteration'' defined	10/03/95	01/24/11
NAC 445B.016	''Alternative operating scenarios'' defined	10/03/95	01/24/11
NAC 445B.019	''Applicable requirement'' defined	06/17/10	01/24/11
NAC 445B.035	''Class I–B application'' defined	10/03/95	01/24/11
NAC 445B.036	''Class I source'' defined	08/19/04	01/24/11
NAC 445B.037	''Class II source'' defined	06/17/10	01/24/11
NAC 445B.038	''Class III source'' defined	06/17/10	01/24/11
NAC 445B.0423	''Commence'' defined	03/18/08	05/21/12
NAC 445B.044	''Construction'' defined	10/04/05	01/24/11
NAC 445B.046	''Contiguous property'' defined	09/16/76	01/24/11
NAC 445B.054	''Dispersion technique'' defined	10/04/05	01/24/11
NAC 445B.064	''Excessive concentration'' defined	10/04/05	01/24/11
NAC 445B.066	''Existing stationary source'' defined	10/03/95	01/24/11
NAC 445B.068	''Facility'' defined	10/03/95	01/24/11
NAC 445B.069	''Federally enforceable'' defined	03/18/08	01/24/11
NAC 445B.070	''Federally enforceable emissions cap'' defined	11/03/93	01/24/11
NAC 445B.082	''General permit'' defined	10/03/95	01/24/11
NAC 445B.083	''Good engineering practice stack height'' defined	10/04/05	01/24/11
NAC 445B.087	''Increment'' defined	11/03/93	01/24/11
NAC 445B.093	''Major modification'' defined	08/19/04	01/24/11
NAC 445B.094	''Major source'' defined	05/10/01	01/24/11
NAC 445B.0945	''Major stationary source'' defined	08/19/04	01/24/11
NAC 445B.099	''Modification'' defined	10/03/95	01/24/11
NAC 445B.104	''Motor vehicle'' defined	05/10/01	01/24/11
NRS 485.050	''Motor vehicle'' defined	As amended in 2003	05/21/12
NAC 445B.107	''Nearby'' defined	10/04/05	01/24/11
NAC 445B.108	''New stationary source'' defined	10/03/95	01/24/11
NAC 445B.117	''Offset'' defined	10/03/95	01/24/11
NAC 445B.123	''Operating permit'' defined	06/17/10	01/24/11
NAC 445B.124	''Operating permit to construct'' defined	11/19/02	01/24/11
NAC 445B.1345	''Plantwide applicability limitation'' defined	06/17/10	01/24/11
NAC 445B.138	''Potential to emit'' defined	10/05/10	01/24/11
NAC 445B.142	''Prevention of significant deterioration of air quality'' defined	11/03/93	01/24/11
NAC 445B.147	''Program'' defined	11/03/93	01/24/11
NAC 445B.154	''Renewal of an operating permit'' defined	11/03/93	01/24/11
NAC 445B.156	''Responsible official'' defined	06/17/10	01/24/11
NAC 445B.157	''Revision of an operating permit'' defined	08/19/04	01/24/11
NAC 445B.179	''Special mobile equipment'' defined	10/05/10 (repealed)	01/24/11
NAC 445B.187	''Stationary source'' defined	10/05/10	01/24/11
NAC 445B.194	''Temporary source'' defined	05/10/01	01/24/11
NAC 445B.200	''Violation'' defined	11/03/93	05/21/12
NAC 445B.287	Operating permits: General requirements; exception; restriction on transfers.	06/17/10	01/24/11
NAC 445B.287(2)	[Provision addressing the operating permit requirements for certain types of Class I sources].	06/17/10	05/21/12
NAC 445B.288	Operating permits: Exemptions from requirements; insignificant activities.	03/18/08	01/24/11
NAC 445B.295	Application: General requirements	09/06/06	01/24/11
NAC 445B.297	Application: Submission; certification; additional information	03/08/06	01/24/11
NAC 445B.298	Application: Official date of submittal	06/17/10	01/24/11
NAC 445B.305	Operating permits: Imposition of more stringent standards for emissions.	06/17/10	01/24/11
NAC 445B.308	Prerequisites and conditions for issuance of certain operating permits; compliance with applicable state implementation plan.	03/18/08	01/24/11
NAC 445B.310	Environmental evaluation: Applicable sources and other subjects; exemption.	09/06/06	01/24/11
NAC 445B.311	Environmental evaluation: Contents; consideration of good engineering practice stack height.	10/05/10	01/24/11
NAC 445B.313	Method for determining heat input: Class I sources	10/05/10	01/24/11
NAC 445B.3135	Method for determining heat input: Class II sources	11/19/02	01/24/11
NAC 445B.314	Method for determining heat input: Class III sources	11/19/02	01/24/11

TABLE 1—SUBMITTED RULES (AND STATUTORY DEFINITION) GOVERNING NSR FOR STATIONARY SOURCES UNDER NDEP JURISDICTION—Continued

Submitted rule	Title	Adoption date	Submittal date
NAC 445B.315	Contents of operating permits: Exception for operating permits to construct; required conditions.	03/08/06	01/24/11
NAC 445B.318	Operating permits: Requirement for each source; form of application; issuance or denial; posting.	03/08/06	01/24/11
NAC 445B.319	Operating permits: Administrative amendment	08/19/04	01/24/11
NAC 445B.325	Operating permits: Termination, reopening and revision, revision, or revocation and reissuance.	06/17/10	01/24/11
NAC 445B.331	Request for change of location of emission unit	09/06/06	01/24/11
NAC 445B.3361	General requirements	06/17/10	01/24/11
NAC 445B.3363	Operating permit to construct: Application	12/09/09	01/24/11
NAC 445B.33637	Operating permit to construct for approval of plantwide applicability limitation: Application.	08/19/04	01/24/11
NAC 445B.3364	Operating permit to construct: Action by Director on application; notice; public comment and hearing.	12/09/09	01/24/11
NAC 445B.3365	Operating permit to construct: Contents; noncompliance with conditions.	03/08/06	01/24/11
NAC 445B.33656	Operating permit to construct for approval of plantwide applicability limitation: Contents; noncompliance with conditions.	03/08/06	01/24/11
NAC 445B.3366	Expiration and extension of operating permit to construct; expiration and renewal of plantwide applicability limitation.	09/06/06	01/24/11
NAC 445B.3368	Additional requirements for application; exception	12/09/09	01/24/11
NAC 445B.3375	Class I–B application: Filing requirement	09/06/06	01/24/11
NAC 445B.3395	Action by Director on application; notice; public comment and hearing; objection by Administrator; expiration of permit.	03/18/08	01/24/11
NAC 445B.340	Prerequisites to issuance, revision or renewal of permit	03/18/08	01/24/11
NAC 445B.342	Certain changes authorized without revision of permit; notification of authorized changes.	10/04/05	01/24/11
NAC 445B.3425	Minor revision of permit	08/19/04	01/24/11
NAC 445B.344	Significant revision of permit	11/19/02	01/24/11
NAC 445B.3441	Administrative revision of permit to incorporate conditions of certain permits to construct.	09/06/06	01/24/11
NAC 445B.3443	Renewal of permit	11/12/08	01/24/11
NAC 445B.3447	Class I general permit	11/19/02	05/21/12
NAC 445B.3453	Application: General requirements	03/08/06	01/24/11
NAC 445B.3457	Action by Director on application; notice; public comment and hearing; expiration of permit.	10/05/11	11/09/11
NAC 445B.346	Required contents of permit	10/03/95	01/24/11
NAC 445B.3465	Application for revision	10/04/05	01/24/11
NAC 445B.3473	Renewal of permit	11/12/08	01/24/11
NAC 445B.3477	Class II general permit	03/18/08	01/24/11
NAC 445B.3485	Application: General requirements	09/06/06	01/24/11
NAC 445B.3487	Action by Director on application; expiration of permit	09/06/06	01/24/11
NAC 445B.3489	Required contents of permit	09/06/06	01/24/11
NAC 445B.3493	Application for revision	09/18/01	01/24/11
NAC 445B.3497	Renewal of permit	11/12/08	01/24/11

B. What is the regulatory history of the Nevada SIP?

On April 17, 2007 (72 FR 19144), we proposed to disapprove a previous version of essentially the same set of NSR rules that we are taking action on today. In that proposed rule, we described in detail the evolution of the Nevada SIP from 1972 through the mid-1980's. Please see our April 17, 2007 proposed rule (at page 19145) for additional details on the evolution of the Nevada SIP during that period. In more recent years, NDEP has submitted various updates to the Nevada SIP, and EPA has over time taken a number of actions to approve (or in a few cases, disapprove) these SIP updates. See, e.g., 71 FR 51766 (August 31, 2006) (approval of updated statutory provisions); 71 FR 71486 (December 11, 2006)(approval of updated monitoring and volatile organic compound rules); and 72 FR 25971 (May 8, 2007) (approval of updated visible emissions and particulate matter rules). We finalized our April 17, 2007 proposed disapproval of the previous version of the NSR rules on April 16, 2008 (73 FR 20536). Today's proposal continues the process of updating the Nevada SIP by proposing action on a new set of NSR rules submitted by NDEP that reflect a number of revisions relative to the previous set of NSR rules that EPA disapproved in 2008.

C. What are the existing Nevada rules governing NSR in the Nevada SIP?

Table 2 lists the existing rules in the Nevada SIP governing NSR for sources under NDEP jurisdiction (i.e., other than those related to nonattainment NSR). As shown in table 2, these rules were approved into the SIP at various times in the 1970's and 1980's. The rules in table 2 would be replaced in, or otherwise deleted from, the SIP by the submitted set of rules (and one statutory provision) listed in table 1 if EPA were to take final action as proposed herein.

TABLE 2—EXISTING SIP RULES GOVERNING NSR FOR STATIONARY SOURCES UNDER NDEP JURISDICTION

Nevada Air Quality Regulations (NAQR) or Nevada Administrative Code (NAC)	Fed. reg. citation and EPA approval date
NAQR article 1.36—Commenced	43 FR 36932 (August 21, 1978).
NAQR article 1.42—Construction	43 FR 36932 (August 21, 1978).
NAQR article 1.43—Contiguous property	43 FR 36932 (August 21, 1978).
NAQR article 1.72—Existing facility	43 FR 36932 (August 21, 1978).
NAQR article 1.104—Major stationary source	43 FR 36932 (August 21, 1978).
NAQR article 1.109—Modification	43 FR 36932 (August 21, 1978).
NAQR article 1.111—Motor vehicle	43 FR 36932 (August 21, 1978).
NAC 445.559—"Operating permit" defined	49 FR 11626 (March 27, 1984).
NAQR article 1.182—Special mobile equipment	43 FR 36932 (August 21, 1978).
NAQR article 1.187—Stationary source	43 FR 36932 (August 21, 1978).
NAC 445.649—"Violation" defined	49 FR 11626 (March 27, 1984).
NAQR article 3.1.6—["Application forms for requesting the issuance of either a registration certificate or an operating permit can be obtained from the Director."].	43 FR 1341 (January 9, 1978).
NAC 445.704—Registration certificates and operating permits required	49 FR 11626 (March 27, 1984).
NAC 445.705—Exemptions	49 FR 11626 (March 27, 1984).
NAC 445.706(1)—Application date; payment of fees	49 FR 11626 (March 27, 1984).
NAC 445.707—Registration certificates: Prerequisite; application; fee; issuance, denial; expiration	49 FR 11626 (March 27, 1984).
NAC 445.712—Operating permits: Prerequisite; application; fee; issuance, denial; posting	49 FR 11626 (March 27, 1984).
NAC 445.713—Operating permits: Renewal	49 FR 11626 (March 27, 1984).
NAC 445.714—Operating permits: Replacement of lost or damaged permits	49 FR 11626 (March 27, 1984).
NAC 445.715—Operating permits: Revocation	49 FR 11626 (March 27, 1984).
NAC 445.716—Operating permits: Change of location	49 FR 11626 (March 27, 1984).
NAQR article 13.1—("General Provisions for the Review of New Sources"), subsection 13.1.3(1)	46 FR 21758 (April 14, 1981).
NAQR article 13.1—("General Provisions for the Review of New Sources"), subsections 13.1.4, 13.1.5, 13.1.6, and 13.1.7.	40 FR 13306 (March 26, 1975).
NAQR article 13.2—[applicability thresholds for environmental evaluations (EEs)], subsections 13.2.3 and 13.2.4.	47 FR 27070 (June 23, 1982).
NAQR article 13.3—[content requirements for EEs], subsection 13.3.1, 13.3.1.1, 13.3.1.2[2]	47 FR 27070 (June 23, 1982).

D. What is the purpose of this proposed rule?

The purpose of this proposed rule is to present our evaluation under the CAA and EPA's regulations of the new and amended NSR rules submitted by NDEP on January 24, 2011, November 9, 2011, and May 21, 2012. We provide our reasoning in general terms below but provide more detailed analysis in the technical support document (TSD) that has been prepared for this proposed rulemaking.

II. EPA's Evaluation

A. How is EPA evaluating the rules?

EPA has reviewed the rules submitted on January 24, 2011, November 9, 2011, and May 21, 2012 by NDEP governing NSR for stationary sources under NDEP jurisdiction for compliance with the CAA requirements for SIPs in general set forth in CAA section 110(a)(2), for compliance with EPA regulations for stationary source permitting programs in 40 CFR part 51, sections 51.160 through 51.164, and also for compliance with CAA requirements for SIP revisions in CAA section 110(l).[3] As described below, EPA is proposing a limited approval and limited disapproval of the submitted NSR rules.

B. Do the rules meet the evaluation criteria?

As to procedural requirements for SIPs and SIP revisions, we find that, based on our review of the public participation documentation included in the January 24, 2011 and November 9, 2011, as well as the earlier NSR SIP submittals dated February 16, 2005 and January 12, 2006, NDEP has provided sufficient evidence of public notice and opportunity for comment and hearing prior the adoption and submittal to EPA for the rules that are the subject of today's proposed action.

As to the substantive requirements, we have used our comprehensive review of the previous set of NSR rules that formed the basis for our April 17, 2007 proposed rule as the starting point for the analysis of the current set of NSR rules. In our April 17, 2007 proposed rule, we found that, in general, the submitted NSR rules that were the subject of that proposed action met the relevant CAA and regulatory criteria, but we proposed to disapprove the rules on the basis of 10 specific deficiencies that we found in the rules. Following our final disapproval action published on April 16, 2008 (73 FR 20536), the SEC adopted revisions to the NSR rules to address the deficiencies that EPA had identified, and NDEP re-submitted the rules, which are the subject of today's action. As explained further below, we have found that the amended rules now sufficiently address all of the deficiencies that EPA had found in the prior set of NSR rules, but that we have identified certain new deficiencies that prevent full approval of the rules. The new deficiencies relate to new requirements that were not in effect at the time of EPA's April 2008 final rule.

1. Previous Deficiencies in Prior-Submitted NSR Rules

In the following paragraphs, we cite the deficiencies that we identified in 2007, describe how the rules have been amended by the SEC, and evaluate whether the revisions fully resolve the

[2] NDEP's NSR SIP retains certain nonattainment NSR provisions including the definition of the term, "lowest achievable emission rate" (LAER), and NAQR article 13.1.3(2) in the SIP. NAQR article 13.1.1 establishes an environmental evaluation (EE) requirement, and NAQR article 13.1.3(2) establishes the LAER requirement. LAER is defined to apply to applicants who are required to submit EEs, and such applicants are identified by emissions-based threshold values in article 13.2, 13.2.1, and 13.2.2, submitted on July 24, 1979 and approved on June 23, 1982 (47 FR 27070). Thus, the existing SIP definition for LAER, NAQR articles 13.1.1, 13.2, 13.2.1, and 13.2.2 must be retained in the SIP to properly interpret and apply the major source nonattainment requirements in NAQR article 13.1.3(2).

[3] CAA section 110(l) requires SIP revisions to be subject to reasonable notice and public hearing prior to adoption and submittal by States to EPA and prohibits EPA from approving any SIP revision that would interfere with any applicable requirement concerning attainment and reasonable further progress, or any other applicable requirement of the CAA.

issues previously raised by EPA. In a separate subsection, we describe the new deficiencies in the NSR rules.

First, we found that certain submitted rules used undefined terms, contained incorrect citations, or relied on rules or statutory provisions that had not been submitted for approval as part of the SIP, or that multiple versions of the same rule were included in the same submittal; and thus were unnecessarily ambiguous. Specifically, we found that:

- NAC 445B.3366 (''Expiration and extension of operating permit to construct; expiration and renewal of plantwide applicability limitation'') relied on the term, ''commence,'' that is not defined in the SIP for contexts outside of CAA section 111 (Standards of performance for new stationary sources)(i.e., not defined for NSR purposes);
- NAC 445B.069 (''Federally enforceable'' defined) included incorrect citations to EPA regulations;
- The following submitted rules relied on rules or statutory provisions that hade not been submitted: NAC 445B.287 [which cited subsection (2) but did not include subsection (2)], NAC 445B.104 (citing NRS 485.050), NAC 445B.179 (citing NRS 482.123), and NAC 445B.311 (citing NAC 445B.083); and
- Multiple versions of the following rules were submitted: NAC 445B.308, NAC 445B.3363, and NAC 445B.3364.

To address these issues:

- SEC adopted a rule (NAC 445B.0423) that defines ''commence'' for NSR purposes and NDEP submitted the rule on May 21, 2012.
- SEC amended NAC 445B.069 (''Federally enforceable'' defined) to correct the citations to EPA regulations and NDEP re-submitted the rule on January 24, 2011.
- NDEP submitted NAC 445B.287, subsection (2), and NRS 485.050 on May 21, 2012; SEC amended the rules such that the NSR program no longer relies on NRS 482.123 (''Special mobile equipment''); and NDEP submitted NAC 445B.083 on January 24, 2011.
- The current submittals evaluated herein, dated January 24, 2011, November 9, 2011, and May 21, 2012 do not contain multiple versions of the same rule.

Second, we concluded that the definition of ''potential to emit'' in submitted rule NAC 445B.138 must be revised to require effective limits and to include criteria by which a limit is judged to be practicably enforceable by NDEP. In response, SEC amended the rule to allow certain physical or operational limitations on the capacity of a stationary source to emit pollutants to be treated as part of its design for the purposes of determining its potential to emit if the limitations are ''federally enforceable,'' a term that is appropriately defined in NAC 445B.069. This revision fully addresses the issue that EPA had identified in the previous version of the rule. NDEP included the revised rule NAC 445B.187 in its January 24, 2011 SIP submittal.

Third, we found that NDEP's stationary source program may not be as inclusive as required under the CAA depending upon whether the exclusion of ''special mobile equipment'' from the definition of ''stationary source'' in submitted rule NAC 445B.187 extends to engines and vehicles that are not considered to be ''nonroad.'' In response, SEC amended NAC 445B.187 to delete the exclusion for ''special mobile equipment,'' and NDEP included the revised rule NAC 445B.138 in its January 24, 2011 SIP submittal.

Fourth, we found that the method for determining heat input for class I sources [4] in submitted rule NAC 445B.313 must be amended to require that combustion sources make applicability determinations based on the maximum heat input. In response, SEC amended NAC 445B.313 accordingly, and NDEP included the revised rule NAC 445B.313 in its January 24, 2011 SIP submittal.

Fifth, we concluded that NAC 445B.331 (''Request for change of location of emission unit'') must be amended to limit its applicability to location changes within the confines of the existing stationary source at which the emission unit is originally permitted. NDEP explained that NAC 445B.331 relates to temporary sources and that such sources must choose between two types of permits: A normal stationary source operating permit [5] or a general operating permit. If the former is chosen, the normal permitting process occurs, and if the latter is chosen, the owner or operator must obtain a general operating permit and request to operate at the selected location within the constraints of the general operating permit. Either way, an environmental evaluation (EE) is performed to ensure compliance with the national ambient air quality standards (NAAQS) (with the exception of NAAQS that have been added or revised in recent years—see II.B.2 of this document). NDEP further explained that the request for approval of a specific location under NAC 445B.331 simply allows the NDEP to evaluate the owner or operator's proposal to ensure that the proposal complies with the terms and conditions of the general operating permit. Based on NDEP's explanation, we believe that no further changes in this rule are required.

Sixth, we found that submitted rule NAC 445B.3477 (''Class II general permit'') must be amended to identify the requirements for general permits, the public participation requirements for issuing such permits, and the criteria by which stationary sources may qualify for such a permit. NDEP has explained that, under Nevada's regulations, a ''general permit'' is a type of operating permit (one issued by the Director to cover numerous similar stationary sources) and that requirements for a general permit and the criteria by which sources may qualify for a general permit are found in the general permit. In addition, NDEP has explained that class II general permits are subject to requirements that are similar to those for class II operating permits, and that NDEP performs a worst-case environmental evaluation to ensure that the terms and conditions of the class II general operating permit will ensure compliance with the NAAQS (with the exception of NAAQS that have been added or revised in recent years—see II.B.2 of this document). We find this explanation satisfactory. As to public participation, SEC amended the rule to establish public participation requirements for issuing class II general permits, and NDEP submitted the revised rule on January 24, 2011. We have reviewed these new requirements and find them acceptable.

Seventh, we found that submitted rule NAC 445B.311 (''Environmental evaluation: Required information'') allows for NDEP to authorize use of a modification or substitution of an EPA-approved model specified in appendix W of 40 CFR part 51 without EPA approval and must be amended accordingly to comply with 40 CFR 51.160(f). In response, SEC has amended the rule to require written approval by EPA for the use of modified or

[4] EPA generally refers to stationary sources with potentials to emit 100 tons per year or more of criteria pollutants (those for which national ambient air quality standards have been promulgated, such as, e.g., ozone, carbon monoxide, and particulate matter) as ''major sources'' and such sources with potentials to emit less than 100 tons per year as ''minor sources.'' Generally, speaking, the NSR program adopted by the Nevada SEC relies on the term ''class I'' sources to refer to ''major sources'' and ''class II'' and ''class III'' sources to refer to ''minor sources.'' In Nevada's NSR program, generally speaking, ''class III'' sources are non-exempt sources with potentials to emit of less than 5 tons per year of criteria pollutants, while ''class II'' sources are those sources that are covered under the NSR rules but that are neither ''class I'' or ''class III'' sources.

[5] Nevada's NSR program uses the term ''operating permit to construct'' or just ''operating permit'' to refer to permits that EPA generally cites as ''construction'' permits.

substitute model, and to require public participation prior to authorization of the use of such a modified or substitute model. NDEP submitted the revised rule on January 24, 2011.

Eighth, to comply with 40 CFR 51.161 (''Public availability of information''), we concluded that the NSR rules must be amended to provide for adequate public review of new or modified class II sources; for notification to the air pollution control agencies for Washoe County or Clark County for those sources proposed to be constructed or modified in Washoe County or Clark County, respectively; and to provide for public participation for new or modified sources of lead with potential to emit 5 tons per year or more.

In response, the SEC has amended the rule to require public participation prior to issuance of all new class II permits and prior to issuance of revisions to class II permits for which allowable emissions would increase in excess of specified thresholds; to require notification to the relevant county air agencies; and to provide for public participation for new or modified sources of lead with potentials to emit 5 tons per year or more. NDEP submitted the revised rule on November 9, 2011. See NAC 445B.3457, subsections (5) and (6).

The emission-based thresholds that the SEC has established in NAC 445B.3457 to identify class II permit revisions that are subject to the public participation requirement are 40 tons per year for carbon monoxide, volatile organic compounds, nitrogen oxides, and sulfur dioxide; 15 tons per year for particulate matter with an aerodynamic diameter of less than or equal to a nominal ten microns (PM_{10}); and 0.6 tons per year for lead (Pb). In its submittal dated May 21, 2012, NDEP included documentation that indicates that selected thresholds capture more than 80 percent of the emissions associated with stationary sources.

EPA regulations in 40 CFR 51.160(e) allow State NSR programs to exclude new minor sources and minor modifications from the NSR program so long as such sources and modifications are not environmentally significant, consistent with the de minimis exemption criteria set forth in *Ala. Power Co.* v. *Costle,* 636 F.2d 323, at 360–361 (D.C. Cir. 1979).[6] Given that 40 CFR 51.160(e) allows for sources and modifications that are not environmentally significant to be excluded entirely from the NSR program, it follows that a State or local agency can choose to exempt some new sources or modifications subject to permitting from public participation requirements, but, it must do so consistent with the de minimis principles and by application of well-defined objective criteria. Thus, EPA believes that 40 CFR 51.161(a) allows for the tailoring of the public participation process for less environmentally significant sources and modifications. See, generally, 60 FR 45530, at 45548–45549 (August 31, 1995). In this instance, we believe that the emissions-based thresholds represent well-defined objective criteria and, based on NDEP's documentation of the extent to which overall stationary source emissions are covered by sources subject to mandatory public participation, we find that the thresholds established in NAC 445B.3457 are reasonably calculated to exclude from mandatory public participation only less environmentally significant sources and modifications. This is acceptable.

In addition, with respect to public participation associated with permits for new class II sources and for class II modifications, we note that the SEC has also revised NAC 445B.3457 to provide for notification to the public through means (a state Web site and mailing list) other than through the traditional newspaper notice. EPA believes that the requirement to provide the required notice by ''prominent advertisement'' in 40 CFR 51.161(b)(3) for new or modified minor sources (other than synthetic minor sources) is media neutral and can be met by means other than, or in combination with, the traditional newspaper notice.[7] See Memorandum dated April 17, 2012 from Janet McCabe, Principal Deputy Assistant Administrator, EPA Office of Air and Radiation, to Regional Administrators, Regions 1–10, titled ''Minor New Source Review Program Public Notice Requirements under 40 CFR 51.161(b)(3).''

Subsection (6) of NAC 445B.3457 provides two means of providing public notice. Paragraph (b) of subsection (6) requires a copy of the notice to be published ''on an Internet Web site designed to give general public notice,[8] '' and paragraph (c) of subsection (6) requires notification through a mailing list developed to include individuals that have requested to be included on such a list. We believe that such notification, with one exception, satisfies the requirement to provide the public with notice through ''prominent advertisement'' in the area affected.

While EPA believes that notice of permitting actions may be made by means other than traditional newspaper notice for most types of minor sources, EPA also believes that, with respect to synthetic minor sources, an exception should be made to the use of electronic means as the sole means to notify the general public of proposed permitting actions. For synthetic minor sources, i.e., sources that have taken enforceable limitations to restrict their potential to emit below major source thresholds, we believe that the traditional means of notification (i.e., newspaper notice) should be included as one of the means for notifying the general public of proposed permit actions on the grounds that such sources should be treated for public participation purposes as major sources for which such notice is required. See 40 CFR 51.166(q)(2)(iii).

NAC 445B.3457 does not provide for traditional newspaper notice of class II sources that constitute synthetic minor sources, but although we recognize that there may be instances where a proposed new synthetic minor source

[6] While the *Alabama Power* court discusses the de minimis principle in the context of a Federal administrative agency's authority in promulgating rules to satisfy statutory requirements, the same principle can be applied where a State promulgates rules to satisfy requirements by a Federal administrative agency. With regards to the de minimis principle, the Alabama Court writes: ''Determination of when matters are truly de minimis naturally will turn on the assessment of particular circumstances, and the agency will bear the burden of making the required showing. But we think most regulatory statutes, including the Clean Air Act, permit such agency showings in appropriate cases. While the difference is one of degree, the difference of degree is an important one. Unless Congress has been extraordinarily rigid, there is likely a basis for an implication of de minimis authority to provide exemption when the burdens of regulation yield a gain of trivial or no value. That implied authority is not available for a situation where the regulatory function does provide benefits, in the sense of furthering the regulatory objectives, but the agency concludes that the acknowledged benefits are exceeded by the costs. For such a situation any implied authority to make cost-benefit decisions must be based not on a general doctrine but on a fair reading of the specific statute, its aims and legislative history.'' See *Ala. Power Co.* v. *Costle,* 636 F.2d 323, at 360–361 (D.C. Cir. 1979).

[7] As noted in footnote 4, above, ''minor sources'' are sources that have the potential to emit regulated NSR pollutants in amounts that are less than the applicable major source thresholds. Synthetic minor sources are those sources that have the potential to emit regulated NSR pollutants at or above the major source thresholds, but that have taken enforceable limitations to restrict their potential to emit below such thresholds.

[8] NDEP has clarified in its submittal dated May 21, 2012 that NDEP's own Web site is the ''Internet Web site'' referred to in NAC 445B.3457. The submittal refers to the wording ''state Web site'' which was included in the January 24, 2011 submittal, rather than ''Internet Web site'' of the November 9, 2011 submittal for NAC 445B.3457, but we believe the clarification is the same for either term.

would not be subject to newspaper notice because, under Nevada's regulations, it is considered a class II source subject to NAC 445B.3457, rather than a class I source subject to NAC 445B.3364 (for which newspaper notice is required), we anticipate that such instances would be few in number. This is because, with very few exceptions, Nevada's NSR rules apply to sources in ''attainment'' or ''unclassified'' areas [9] where the major source thresholds (for the purposes of NSR) are 250 tons per year for most types of sources whereas the requirements for class I sources under NAC 445B.3364 (under which newspaper notice is required) apply to sources with potentials to emit 100 tons per year or more. Thus, most synthetic minor sources under Nevada's regulations would be considered ''class I'' sources (and subject to traditional newspaper notice), because they would have potentials to emit at least 100, but less than 250, tons per year, although still considered ''minor sources'' for the purposes of NSR. Therefore, we do not find that the deficiency in Nevada's public notice requirements with respect to synthetic minor sources to be significant. Nonetheless, we recommend that the SEC amend the public notice regulations to ensure that the general public is notified of new synthetic minor sources by traditional (newspaper) means, at a minimum, or, preferably, in combination with electronic means.

Ninth, we found that the affirmative defense provision in submitted rule NAC 445B.326 (''Operating permits: Assertion of emergency as affirmative defense to action for noncompliance'') was not approvable under CAA section 110(a)(2) as written because it could be applied to technology-based emission limitations approved into the SIP. NDEP did not include NAC 445B.326 in the revised sets of NSR rules submitted to EPA for action as a SIP revision. Furthermore an affirmative defense provision, such as that provided for in NAC 445B.326, is not required to be included in a SIP NSR program; therefore, the previously-identified deficiencies in NAC 445B.326 do not need to be considered further in the context of action on the submitted NSR rules.

Lastly, while the submitted rules include a specific prohibition on approving a permit for any source where the degree of emission limitation required is affected by that amount of the stack height as exceeds good engineering practice stack height or any other dispersion technique, we found that the relevant provision (i.e., 445B.308(3)) includes director's discretion (* * * if ''the Director determines'' * * *), which must be removed in order for EPA to approve the rules as meeting the requirements of 40 CFR 51.164. In response, the SEC amended the rule to clarify that the Director's discretion in this instance is limited by the additional procedural requirements set forth in subsection (3) of NAC 445B.311. We have reviewed the additional procedural requirements in subsection (3) of NAC 445B.311 and find that they are consistent with the related requirements in 40 CFR 51.164. NDEP submitted the revised rule on January 24, 2011.

In conclusion, based on our point-by-point evaluation of the previous deficiencies in the previously-submitted NSR rules, as described above and in further detail in our TSD, we find that Nevada has adequately addressed all of the previously-identified deficiencies by submittal of appropriately amended rules and supporting documentation.

2. New Deficiencies in NSR Rules

While we believe that Nevada has adequately addressed the previously-identified deficiencies in the NSR rules, we now find that the State's NSR rules fail to address certain new requirements that were not in effect in 2008 when EPA last took action on them.

Under 40 CFR 51.160, in connection with NSR, each SIP must set forth legally enforceable procedures that enable the State or local agency to determine whether the construction or modification of a facility, building, structure or installation or combination of these will result in, among other impacts, interference with attainment or maintenance of a national standard in the state in which the proposed source (or modification) is located or in a neighboring State.

To address this requirement, NAC 445B.310 and 445B.311 require permit applicants to prepare environmental evaluations (EE) that contain dispersion analyses showing the effect of the source on the quality of the ambient air. As explained below, NAC 445B.308, 445B.310, and 445B.311 represent a legally enforceable procedure that enables NDEP to make the necessary determinations under 40 CFR 51.160 with respect to the national ambient air quality standards, circa 1991, but not with respect to the new or revised national standards promulgated by EPA since that time.

Subsection (2) of NAC 445B.308 prohibits the issuance of an operating permit or revision thereto for any stationary source if the EE shows that the stationary source would ''prevent the attainment and maintenance of the state or national ambient air quality standards. For the purposes of this paragraph, only those ambient air quality standards that have been established in NAC 445B.22097 need to be considered in the environmental evaluation.''

NAC 445B.22097 in turn lists the Nevada ambient air quality standards (''Nevada standards'') and national ambient air quality standards (''National standards'' or NAAQS).[10] With respect to the NAAQS, NAC 445B.22097 has not been updated since 1991 and thus does not include the new, revised, or revoked NAAQS since that time. Moreover, NAC 445B.22097 includes a note that states: ''The Director shall use the Nevada standards in considering whether to issue a permit for a stationary source and shall ensure that the stationary source will not cause the Nevada standards to be exceeded in areas where the general public has access.'' The Nevada ambient air quality standards are equal to the NAAQS (i.e., as of 1991) for those pollutants for which both Nevada and EPA have established ambient standards, but, because the Nevada standards do not reflect the changes in the NAAQS since 1991, reliance on them for permitting purposes does not ensure protection of the new or revised NAAQS established since then as NDEP reviews permit applications for new or modified stationary sources.

With respect to the ozone NAAQS, we therefore encourage the SEC to update NAC 445B.22097 to take into account the replacement of the 1-hour ozone standard (0.12 ppm) with an 8-hour ozone standard (0.075 ppm), although we do not consider the failure to update the rule for ozone as a significant deficiency because, given the regional nature of ambient ozone concentrations, applicants for permits for new or modified stationary sources are not required to show, through dispersion modeling techniques, that the ozone precursor emissions from the source or modification would not violate the standard.

With respect to $PM_{2.5}$, we recognize that NDEP submitted ''infrastructure''

[9] See 40 CFR 81.329 for the designations of air quality planning areas in the State of Nevada. As shown in the tables codified at 40 CFR 81.329, other than certain areas within Clark and Washoe Counties, air quality planning areas in Nevada are designated as attainment or unclassifiable.

[10] EPA approved NAC 445B.22097 (''Standards of quality for ambient air'') as part of the Nevada SIP in a separate rulemaking. See 71 FR 15040 (March 27, 2006).

SIPs [11] on February 26, 2008 and September 15, 2009 to address the 1997 $PM_{2.5}$ NAAQS and 2006 $PM_{2.5}$ NAAQS, respectively. In both such $PM_{2.5}$ ''infrastructure'' SIPs, NDEP indicated that the NSR requirements for the $PM_{2.5}$ NAAQS were to be met by evaluating new and modified sources for compliance with the PM_{10} standard. At the time these ''infrastructure'' SIPs were submitted, EPA's policy allowed States to permit new or modified $PM_{2.5}$ sources using the PM_{10} NSR program requirements as a surrogate for $PM_{2.5}$. We also recognize that we did not take timely action on the two ''infrastructure'' SIP submittals, and, as a result of the passage of time, the ''surrogate'' policy has lapsed (since May 16, 2011). As a result, States must now evaluate $PM_{2.5}$ emissions from new or modified sources directly to determine whether such sources would violate the 24-hour (35 $\mu g/m^3$) or annual (15 $\mu g/m^3$) $PM_{2.5}$ standards. See 40 CFR 51.166(a)(6)(i) and 73 FR 28321, at 28344 (May 16, 2008). The submitted NSR rules evaluated herein do not yet address $PM_{2.5}$, and given the now-current requirements for $PM_{2.5}$ and the lapse of the surrogate policy, we cannot now fully approve the submitted NSR rules. In response, the State Environmental Commission must revise the NSR rules to ensure protection of the $PM_{2.5}$ NAAQS in the issuance of permits for new or modified sources or EPA must promulgate a FIP within two years of final action.

With respect to lead (Pb), we recognize that NDEP submitted an ''infrastructure'' SIP on October 12, 2011 to address the 2008 Pb NAAQS and that we have not yet taken action on it. Furthermore, we recognize that, at the time NDEP submitted the Pb ''infrastructure'' SIP, the deadline for States to submit the necessary NSR-related changes to address the 2008 Pb NAAQS had not yet passed. Now, however, with the passage of time, the deadline for such NSR-related changes has passed, and we must evaluate the submitted NSR requirements against the now-current NSR requirements. Thus, similar to the approach we are taking for $PM_{2.5}$, we find that the submitted NSR rules do not address the new rolling 3-month average Pb NAAQS (0.15 $\mu g/m^3$) and thus we cannot now fully approve the submitted NSR rules. See 73 FR 66964, 67034–67041 (November 12, 2008). In response, the State Environmental Commission must revise the NSR rules to ensure protection of the Pb NAAQS in the issuance of permits for new or modified sources or EPA must promulgate a FIP within two years of final action.

With respect to new or revised NAAQS for nitrogen dioxide and sulfur dioxide, and based on the promulgation dates of these new or revised NAAQS, the State still has additional time to amend its NSR rules to address the revised NAAQS for these pollutants, and thus we do not view the failure to update NAC 445B.22097 to address the 2010 1-hour nitrogen dioxide standard and the 2010 1-hour sulfur dioxide standard as precluding approval of the submitted NSR rules at this time. See 75 FR 6474, at 6523–6525 (February 9, 2010) (NSR SIP revisions for the 1-hour nitrogen dioxide NAAQS are due on January 22, 2013); and 75 FR 35520, at 35573–35580 (June 22, 2010) (NSR SIP revisions for the 1-hour sulfur dioxide NAAQS are due on June 2, 2013). We encourage the SEC to make any necessary revisions to the NSR rules to address these revised NAAQS, and we encourage NDEP to adopt and submit the revised NSR rules as a SIP revision prior to the upcoming deadlines.

3. Conclusion

For the reasons stated above, we find that the State has adequately addressed all of the previously-identified deficiencies in the NSR rules but new deficiencies related to the new or revised $PM_{2.5}$ and Pb NAAQS prevent us from proposing a full approval of the rules. Therefore, we are proposing a limited approval and limited disapproval of the submitted NSR rules. We do so based also on our finding that, while the rules do not meet all of the applicable requirements, the rules would represent an overall strengthening of SIP by clarifying and enhancing the NSR permitting requirements.

III. Public Comment and Proposed Action

Pursuant to section 110(k) of the Clean Air Act, and for the reasons provided above, EPA is proposing a limited approval and limited disapproval of revisions to the Nevada SIP that govern applications for, and issuance of, permits for stationary sources under the jurisdiction of the Nevada Division of Environmental Protection, excluding review and permitting of major sources and major modifications under parts C and D of title I of the Clean Air Act. Specifically, EPA is proposing a limited approval and limited disapproval of the new or amended sections of the Nevada Administrative Code (and one section of the Nevada Revised Statutes) listed in table 1, above as a revision to the Nevada SIP.

EPA is proposing this action because, although we find that the new or amended rules meet most of the applicable requirements for such NSR programs and that the SIP revisions improve the existing SIP, we have also found certain deficiencies that prevent full approval. Namely, the submitted NSR rules do not address the new or revised national ambient air quality standards for $PM_{2.5}$ and lead (Pb) and must be revised accordingly.

The intended effect of this limited approval and limited disapproval action is to update the applicable state implementation plan with current State rules with respect to permitting,[12] and to set the stage for remedying deficiencies in the permitting rules with respect to new or revised national ambient air quality standards for $PM_{2.5}$ and Pb. If finalized as proposed, this limited approval action would not trigger mandatory sanctions under section 179 of the Clean Air Act because sanctions apply to nonattainment areas and no areas within the State of Nevada have been designated as nonattainment for the national $PM_{2.5}$ or Pb standards. However, this limited disapproval action would trigger an obligation on EPA to promulgate a Federal Implementation Plan unless the State of Nevada corrects the deficiencies, and EPA approves the related plan revisions within two years of the final action.

We will accept comments from the public on this proposed limited approval and limited disapproval for the next 30 days.

IV. Statutory and Executive Order Reviews

A. Executive Order 12988, Regulatory Planning and Review

The Office of Management and Budget (OMB) has exempted this regulatory action from Executive Order 128665, entitled ''Regulatory Planning and Review.''

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* Burden is defined at 5 CFR 1320.3(b).

[11] ''Infrastructure SIPs'' refer to SIPs submitted in response to EPA's promulgation of a new or revised NAAQS and include provisions necessary to comply with the SIP content requirements set forth in CAA section 110(a)(2), other than those arising from designation of any area within a state as ''nonattainment'' for the new or amended NAAQS.

[12] Final approval of the rules (and statutory provision) in table 1 would supersede the rules listed in table 2, above, in the existing Nevada SIP.

C. Regulatory Reduction Act

The Regulatory Flexibility Act (RFA) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and small governmental jurisdictions.

This rule will not have a significant impact on a substantial number of small entities because SIP approvals or disapprovals under section 110 and subchapter I, part D of the Clean Air Act do not create any new requirements but simply approve requirements that the State is already imposing. Therefore, because this proposed limited approval/limited disapproval action does not create any new requirements, I certify that this action will not have a significant economic impact on a substantial number of small entities. Moreover, due to the nature of the Federal-State relationship under the Clean Air Act, preparation of flexibility analysis would constitute Federal inquiry into the economic reasonableness of State action. The Clean Air Act forbids EPA to base its actions concerning SIPs on such grounds. *Union Electric Co.,* v. *U.S. EPA,* 427 U.S. 246, 255–66 (1976); 42 U.S.C. 7410(a)(2).

D. Unfunded Mandates Reform Act

Under section 202 of the Unfunded Mandates Reform Act of 1995 (''Unfunded Mandates Act''), signed into law on March 22, 1995, EPA must prepare a budgetary impact statement to accompany any proposed or final rule that includes a Federal mandate that may result in estimated costs to State, local, or tribal governments in the aggregate; or to the private sector, of $100 million or more. Under section 205, EPA must select the most cost-effective and least burdensome alternative that achieves the objectives of the rule and is consistent with statutory requirements. Section 203 requires EPA to establish a plan for informing and advising any small governments that may be significantly or uniquely impacted by the rule.

EPA has determined that the limited approval/limited disapproval action proposed does not include a Federal mandate that may result in estimated costs of $100 million or more to either State, local, or tribal governments in the aggregate, or to the private sector. This Federal action proposed to approve and disapprove pre-existing requirements under State or local law, and imposes no new requirements. Accordingly, no additional costs to State, local, or tribal governments, or to the private sector, result from this action.

E. Executive Order 13132, Federalism

Federalism (64 FR 43255, August 10, 1999) revokes and replaces Executive Orders 12612 (Federalism) and 12875 (Enhancing the Intergovernmental Partnership). Executive Order 13132 requires EPA to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' is defined in the Executive Order to include regulations that have ''substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government.'' Under Executive Order 13132, EPA may not issue a regulation that has federalism implications, that imposes substantial direct compliance costs, and that is not required by statute, unless the Federal government provides the funds necessary to pay the direct compliance costs incurred by State and local governments, or EPA consults with State and local officials early in the process of developing the proposed regulation. EPA also may not issue a regulation that has federalism implications and that preempts State law unless the Agency consults with State and local officials early in the process of developing the proposed regulation.

This rule will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132, because it merely proposes to approve and disapprove a State rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. Thus, the requirements of section 6 of the Executive Order do not apply to this rule.

F. Executive Order 13175, Coordination With Indian Tribal Governments

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This proposed rule does not have tribal implications, as specified in Executive Order 13175. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes. Thus, Executive Order 13175 does not apply to this rule.

G. Executive Order 13045, Protection of Children From Environmental Health Risks and Safety Risks

EPA interprets Executive Order 13045 (62 FR 19885, April 23, 1997) as applying only to those regulatory actions that concern health or safety risks, such that the analysis required under section 5–501 of the Executive Order has the potential to influence the regulation. This rule is not subject to Executive Order 13045, because it proposes to approve and disapprove a State rule implementing a Federal standard.

H. Executive Order 13211, Actions That Significantly Affect Energy Supply, Distribution, or Use

This rule is not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001) because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12 of the National Technology Transfer and Advancement Act (NTTAA) of 1995 requires Federal agencies to evaluate existing technical standards when developing a new regulation. To comply with NTTAA, EPA must consider and use ''voluntary consensus standards'' (VCS) if available and applicable when developing programs and policies unless doing so would be inconsistent with applicable law or otherwise impractical.

The EPA believes that VCS are inapplicable to this action. Today's action does not require the public to perform activities conducive to the use of VCS.

J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Population

Executive Order (EO) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs

federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA lacks the discretionary authority to address environmental justice in this proposed rulemaking. In reviewing SIP submissions, EPA's role is to approve or disapprove state choices, based on the criteria of the Clean Air Act. Accordingly, this action merely proposes a limited approval/limited disapproval of certain State requirements for inclusion into the SIP under section 110 and subchapter I, part D of the Clean Air Act and will not in-and-of itself create any new requirements. Accordingly, it does not provide EPA with the discretionary authority to address, as appropriate, disproportionate human health or environmental effects, using practicable and legally permissible methods, under Executive Order 12898.

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Intergovernmental relations, Lead, Particulate matter, Reporting and recordkeeping requirements, Sulfur oxides.

Authority: 42 U.S.C. 7401 *et seq.*

Dated: June 20, 2012.

Jared Blumenfeld,

Regional Administrator, Region IX.

[FR Doc. 2012–15873 Filed 6–27–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 271

[EPA—R06–RCRA–2012–0367; FRL–9692–6]

Louisiana: Final Authorization of State Hazardous Waste Management Program Revisions

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: The State of Louisiana has applied to EPA for Final authorization of the changes to its hazardous waste program under the Resource Conservation and Recovery Act (RCRA). EPA proposes to grant Final authorization to the State of Louisiana. In the ''Rules and Regulations'' section of this **Federal Register**, EPA is authorizing the changes by an immediate final rule. EPA did not make a proposal prior to the immediate final rule because we believe this action is not controversial and do not expect comments that oppose it. We have explained the reasons for this authorization in the preamble to the immediate final rule. Unless we get written comments which oppose this authorization during the comment period, the immediate final rule will become effective on the date it establishes, and we will not take further action on this proposal. If we receive comments that oppose this action, we will withdraw the immediate final rule and it will not take effect. We will then respond to public comments in a later final rule based on this proposal. You may not have another opportunity for comment. If you want to comment on this action, you must do so at this time.

DATES: Send your written comments by July 30, 2012.

ADDRESSES: Send written comments to Alima Patterson, Region 6, Regional Authorization Coordinator, (6PD–O), Multimedia Planning and Permitting Division, at the address shown below. You can examine copies of the materials submitted by the State of Louisiana during normal business hours at the following locations: EPA Region 6, 1445 Ross Avenue, Dallas, Texas 75202–2733, phone number (214) 665–6444; or Louisiana Department of Environmental Quality, 602 N. Fifth Street, Baton Rouge, Louisiana 70884–2178, phone number (225) 219–3559. Comments may also be submitted electronically or through hand delivery/courier; please follow the detailed instructions in the **ADDRESSES** section of the immediate final rule which is located in the Rules section of this **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Alima Patterson (214) 665–8533.

SUPPLEMENTARY INFORMATION: For additional information, please see the immediate final rule published in the ''Rules and Regulations'' section in this issue of the **Federal Register**.

Dated: June 15, 2012.

Samuel Coleman,

Acting Regional Administrator, Region 6.

[FR Doc. 2012–15871 Filed 6–27–12; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 120307159–2155–01]

RIN 0648–BB99

Fisheries of the Northeastern United States; Atlantic Mackerel, Squid, and Butterfish Fisheries; Framework Adjustment 6

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Proposed rule, request for comments.

SUMMARY: NMFS proposes a change in the Mid-Atlantic Fishery Management Council's risk policy regarding stocks without an overfishing limit. The current risk policy does not allow increases of the acceptable biological catch for stocks that do not have an overfishing limit derived from the stock assessment. The modification will allow increases of the acceptable biological catch for stocks that have stable or increasing trends in abundance, and for which there is robust scientific information to suggest that an increased acceptable biological catch will not lead to overfishing.

DATES: Public comments must be received no later than 5 p.m., eastern standard time, on July 30, 2012.

ADDRESSES: Copies of supporting documents used by the Mid-Atlantic Fishery Management Council (Council), including the Supplemental Environmental Assessment (EA) and Regulatory Impact Review (RIR)/Initial Regulatory Flexibility Analysis (IRFA) for Framework Adjustment 6, are available from: Dr. Christopher M. Moore, Executive Director, Mid-Atlantic Fishery Management Council, Suite 201, 800 N. State Street, Dover, DE 19901. The EA/RIR/IRFA is accessible via the Internet at *http://www.nero.noaa.gov.*

You may submit comments, identified by NOAA–NMFS–2012–0110, by any one of the following methods:

• *Electronic Submission:* Submit all electronic public comments via the Federal e-Rulemaking Portal *www.regulations.gov.* To submit comments via the e-Rulemaking Portal, first click the ''submit a comment'' icon, then enter NOAA–NMFS–2012–0110 in the keyword search. Locate the document you wish to comment on from the resulting list and click on the

''Submit a Comment'' icon on the right of that line.

• Mail to NMFS, Northeast Regional Office, 55 Great Republic Dr, Gloucester, MA 01930. Mark the outside of the envelope ''Comments on MSB Framework Adjustment 6.''

• *Fax:* (978) 281–9135, Attn: Aja Szumylo.

Instructions: Comments must be submitted by one of the above methods to ensure that they are received, documented, and considered by NMFS. Comments sent by any other method, to any other address or individual, or received after the end of the comment period, may not be considered. All comments received are a part of the public record and will generally be posted for public viewing on *www.regulations.gov* without change. All personal identifying information (e.g., name, address, etc.) submitted voluntarily by the sender will be publicly accessible. Do not submit confidential business information, or otherwise sensitive or protected information. NMFS will accept anonymous comments (enter ''N/A'' in the required fields if you wish to remain anonymous). Attachments to electronic comments will be accepted in Microsoft Word or Excel, WordPerfect, or Adobe PDF file formats only.

FOR FURTHER INFORMATION CONTACT: Aja Szumylo, Fishery Policy Analyst, 978–281–9195, fax 978–281–9135.

SUPPLEMENTARY INFORMATION:

Background

The regulations that implement the Council's risk policy at 50 CFR 648.21 went into effect on October 31, 2011, as part of the Council's Omnibus Amendment to implement annual catch limits and accountability measures (76 FR 60606). Among other measures, the Omnibus Amendment established acceptable biological catch (ABC) control rules (implementing regulations at 50 CFR 648.20) and a risk policy (§ 648.21) to guide the Council's Scientific and Statistical Committee (SSC) in their ABC setting process.

The ABC control rules assign stocks to a certain level (Levels 1–4) based on the amount of uncertainty about the stock, and provide formulas for the establishment of an ABC for stocks at each level. Level 1 refers to stocks that have mostly complete stock status information, while Level 4 refers to data poor stocks. The ABC control rule regulations note that the SSC can deviate from the control rule methods if they describe why the deviation is warranted, describe the methods used to derive the alternative ABC, and explain how the deviation is consistent with National Standard 2. The risk policy works in conjunction with the ABC control rules, and is used to indicate the Council's preferred tolerance for risk of overfishing to the SSC. In general, the Council's risk policy states that ABC should be set so that the risk of overfishing stays below 40 percent, based on a probability distribution for the overfishing limit (OFL).

The existing risk policy is more stringent for stocks that lack an OFL and states that, ''If an OFL cannot be determined from the stock assessment, or if a proxy is not provided by the SSC during the ABC recommendation process, ABC levels may not be increased until such time that an OFL has been identified.'' This provision was designed to prevent catch levels from being increased when there are no criteria available to determine if overfishing will occur in the upcoming fishing year. Following one of the first applications of the risk policy for the 2012 fishing year (2012 butterfish specifications; 77 FR 16472; March 21, 2012), the Council found that there are limited circumstances in which the SSC may be scientifically justified in recommending that the ABC be increased for stocks without fishing mortality reference points without resulting in an unacceptably high risk of overfishing. Thus, the Council initiated Framework Adjustment 6 to change the risk policy to allow the SSC to use all available scientific data when recommending ABCs in data poor situations, rather than constraining the SSC in its recommendation when an OFL is not available.

Framework Adjustment 6 proposes to modify the risk policy regarding stocks without an OFL or OFL proxy to allow increase in ABC for stocks that have stable or increasing trends in abundance, and for which the SSC can point to robust scientific information to suggest that an increased ABC will not lead to overfishing. The adjustment to this policy would not change the Council's approach to stocks without an OFL that have declining biomass, or for which the SSC cannot point to scientific evidence to suggest that the recommended ABC will not result in overfishing.

Though the proposed action only modifies the MSB FMP, it will apply to all of the Council's managed species, including Atlantic mackerel, butterfish, Atlantic bluefish, spiny dogfish, summer flounder, scup, black sea bass, Atlantic surfclam, ocean quahog, and tilefish. The provisions in the Omnibus Amendment, including the risk policy, do not apply to longfin squid or *Illex* squid; these species are exempt from these requirements because they have a life cycle of less than 1 year. The regulations for the ABC control rules and risk policy reside in the MSB FMP, but are a product of the Omnibus Amendment, which affected all of the plans for the above listed species. It is only necessary to complete this action as a Framework Adjustment to the MSB FMP because the ABC control rules and risk policy are incorporated by reference into the regulations for all other Council species.

Classification

Pursuant to section 304(b)(1)(A) of the MSA, the NMFS Assistant Administrator has determined that this proposed rule is consistent with the Atlantic Mackerel, Squid, and Butterfish FMP; Atlantic Bluefish FMP; Spiny Dogfish FMP; Summer Flounder, Scup, and Black Sea Bass FMP; Surfclam and Ocean Quahog FMP; and Tilefish FMP; other provisions of the MSA; and other applicable law, subject to further consideration after public comment.

This proposed rule has been determined to be not significant for purposes of Executive Order 12866.

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration that this proposed rule, if adopted, would not have a significant economic impact on a substantial number of small entities.

As outlined in the preamble to this proposed rule, Framework Adjustment 6 proposes to modify the Council's risk policy regarding stocks without an OFL or OFL proxy to allow increase in ABC for stocks that have stable or increasing trends in abundance, and for which the Council's SSC can point to robust scientific information to suggest that an increased ABC will not lead to overfishing. The Council conducted a comprehensive evaluation of the potential socioeconomic impacts of Framework Adjustment 6 in conjunction with a Supplemental Environmental Assessment analysis.

The formal procedures for addressing both scientific and management uncertainty in the catch limit establishment system implemented through the Omnibus Amendment were administrative, as they were entirely a description of process and have no substantive impact on regulated entities. Framework Adjustment 6 adjusts a feature of the existing catch limit establishment system. While Framework Adjustment 6 adjusts the Council's guidance to the SSC regarding ABC recommendations for stocks without an OFL or OFL proxy, the action contains

no actual application of the methods to set ABC, application of the risk policy, or establishment of specific annual catch limits or accountability measures for any of the Council's fishery management plans (FMPs). As a result, there are no immediate economic impacts to evaluate. Should the SSC rely on this provision to recommend ABCs in future specifications, the resulting catch levels derived from its recommendation will have measurable impacts, and the specific impacts associated those catch levels will be evaluated through the Council's specification processes for each FMP and addressed in the resulting NMFS rules.

The Council-conducted analyses identified 2,875 unique fishing entities in the Northeast Region, all of which were determined to be small entities. However, given the purely administrative nature of the proposed measures, there are neither expected direct economic or disproportionate impacts to either small or large regulated entities given the aforementioned adjustment to the administrative process proposed in Framework Adjustment 6. As a result, an initial regulatory flexibility analysis is not required and none has been prepared. RFA analysis will be conducted, as appropriate, for subsequent actions that establish catch limits for Council-managed species.

List of Subjects in 50 CFR Part 648

Fisheries, Fishing, Recordkeeping and reporting requirements.

Dated: June 25, 2012.

Samuel D. Rauch III,

Deputy Assistant Administrator for Regulatory Programs, National Marine Fisheries Service.

For the reasons set out in the preamble, 50 CFR part 648 is proposed to be amended as follows:

PART 648—FISHERIES OF THE NORTHEASTERN UNITED STATES

1. The authority citation for part 648 continues to read as follows:

Authority: 16 U.S.C. 1801 *et seq.*

2. In § 648.21, paragraph (d) is revised to read as follows:

§ 648.21 Mid-Atlantic Fishery Management Council risk policy.

* * * * *

(d) *Stock without an OFL or OFL proxy.* (1) If an OFL cannot be determined from the stock assessment, or if a proxy is not provided by the SSC during the ABC recommendation process, ABC levels may not be increased until such time that an OFL has been identified.

(2) The SSC may deviate from paragraph (d)(1) of this section, provided that the following two criteria are met: Biomass-based reference points indicate that the stock is greater than B_{MSY} and stock biomass is stable or increasing, or if biomass based reference points are not available, best available science indicates that stock biomass is stable or increasing; and the SSC provides a determination that, based on best available science, the recommended increase to the ABC is not expected to result in overfishing. Any such deviation must include a description of why the increase is warranted, description of the methods used to derive the alternative ABC, and a certification that the ABC is not likely to result in overfishing on the stock.

[FR Doc. 2012–15890 Filed 6–27–12; 8:45 am]

BILLING CODE 3510–22–P

Notices

Federal Register
Vol. 77, No. 125
Thursday, June 28, 2012

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Information Collection; Application for Permit for Use of Roads, Trails, or Areas Restricted by Regulation or Order

AGENCY: Forest Service, USDA.

ACTION: Notice; request for comment.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Forest Service is seeking comments on the revision of a currently approved information collection, form FS–7700–40, Application for Permit, Non-Federal Commercial Use of Roads Restricted by Order. The revised information collection is entitled, ''Application for a Permit for Use of Roads, Trails, or Areas Restricted by Regulation or Order.'' The Forest Service is also seeking comment on an associated new information collection, form FS–7700–NEW (form number to be determined), Permit for Use of Roads, Trails, or Areas Restricted by Regulation or Order, and renewal of an associated existing information collection, form FS–7700–41, Non-Federal Commercial Road Use Permit.

DATES: Comments must be received in writing by August 27, 2012 to be considered.

ADDRESSES: Comments concerning this notice should be addressed to USDA Forest Service, Director, Engineering Staff, RPC5, 1601 North Kent Street, Room 500, Arlington, VA 22209. Comments also may be submitted via facsimile to 703 605–1542 or by email to *dhager@fs.fed.us*.

The public may inspect comments received at the USDA Forest Service, Office of the Director of Engineering, 1601 North Kent Street, Room 500, Arlington, VA, during normal business hours. Visitors are encouraged to call ahead at 703 605–4962 to facilitate entry into the building.

FOR FURTHER INFORMATION CONTACT: Dan Hager, Engineering staff, 703 605–4612. Individuals who use telecommunication devices for the deaf may call the Federal Relay Service at 800 877–8339 twenty-four hours a day, every day of the year, including holidays.

SUPPLEMENTARY INFORMATION:

Title

Current: Application for Permit, Non-Federal Commercial Use of Roads Restricted by Order.

Revised: Application for a Permit for Use of Roads, Trails, or Areas Restricted by Regulation or Order.

OMB Number: 0596–0016.

Expiration Date of Approval: January 31, 2013.

Type of Request: Revision of a currently approved information collection, approval of an associated new information collection, and renewal of an associated existing information collection.

Abstract: Authority for permits for use of National Forest System (NFS) roads, NFS trails, and areas on NFS lands restricted by order or regulation derives from the National Forest Roads and Trails Act (16 U.S.C. 532–538). This statute authorizes the Secretary of Agriculture to promulgate regulations regarding use of NFS roads, NFS trails, and areas on NFS lands; establish procedures for sharing investments in NFS roads; and require commercial users to perform road maintenance commensurate with their use of NFS roads. Forest Service regulations implementing this authority are found in 36 CFR 212.5, 212.9, 212.51, 261.10, 261.12, 261.13, 261.54, and 261.55.

In particular, 36 CFR 212.5 and 212.9 authorize the Chief of the Forest Service to establish procedures for investment sharing and to require commercial users to perform maintenance commensurate with their road use. Section 261.10 contains a national prohibition against constructing or maintaining an NFS road or NFS trail without a written authorization. Section 212.12 contains a national prohibition against violating the load, weight, height, length, or width limitations of State law when using NFS roads without a written authorization. Section 212.13 contains a national prohibition against possessing or operating a motor vehicle on NFS roads, NFS trails, or areas on NFS lands that are not designated for motor vehicle use on a motor vehicle use map, unless the use is authorized by a written authorization. Section 261.54 authorizes issuance of an order prohibiting use of an NFS road in a manner prohibited by the order without a written authorization, including commercial hauling without a permit or written authorization when required by order. Section 261.55 authorizes issuance of an order prohibiting use of an NFS trail in a manner prohibited by the order without a written authorization.

Forest Service directives implementing the regulations are found in Forest Service Manual 2350, 7710, and 7730 and Forest Service Handbook 7709.59, chapter 20. These directives provide for the size and weight limits under State traffic law to apply on NFS roads and require the responsible official to designate NFS roads, NFS trails, and areas on NFS lands for motor vehicle use; enter into appropriate investment sharing arrangements, require commercial users of NFS roads to perform maintenance commensurate with their road use; and issue orders that implement the authority in 36 CFR 261.54. The permits road users obtain contain appropriate requirements for implementation of applicable regulations and directives.

Form FS–7700–40, Application for Permit for Use of Roads, Trails, or Areas Restricted by Regulation or Order. This form will be used by individuals and entities that apply for a permit to use NFS roads, NFS trails, or areas on NFS lands that are subject to a restriction established by regulation or order. Examples of restrictions requiring permits are motor vehicle use on NFS roads and NFS trails that are not designated for that purpose; operating trucks that exceed size limits established by State traffic law on NFS roads; area closures during periods of high fire danger; and non-Federal commercial use of NFS roads.

The following information is collected: (1) The applicant's name, address, and telephone number; (2) identification of the NFS roads, NFS trails, and areas on NFS lands proposed for use (NFS roads and NFS trails are identified by Forest Service route number, and areas on NFS lands are identified using a map); (3) purpose of use; and (4) the proposed use schedule. The applicant is asked to provide explanatory information specific to the

proposed use, including information on the types and size of vehicles, through attachments and remarks. There are standard attachments available for use when the application requests oversize vehicle use or commercial use of roads. The application is submitted to the Forest Supervisor or District Ranger responsible for the NFS roads, NFS trails, or areas on NFS lands for which a permit is requested.

When applications for commercial use of roads restricted by order are received, the information is used to identify maintenance commensurate with the applicant's road use. The information is also used to calculate the proportion of acquisition, construction, and maintenance costs associated with the NFS roads proposed for use that is assignable to the applicant for purposes of investment sharing. When requests are for oversize vehicle use, the information is used to evaluate the structural capacity of bridges and potential adverse effects on the safety of other traffic on the roads proposed for use. When the application requests use of NFS roads, NFS trails, or areas on NFS lands that are not designated for motor vehicle use or are restricted by order, the information is used to decide whether and, if appropriate, when the use should be permitted. The information collected is not reported to or summarized at higher levels of the Forest Service.

The identifying information collected on form FS–7700–40, Application for Permit for Use of Roads, Trails, or Areas Restricted by Regulation or Order, is used on form FS–7700–41, Non-Federal Commercial Road Use Permit, and form FS–7700–NEW (form number to be determined), Permit for Use of Roads, Trails, or Areas Restricted by Regulation or Order, to identify the permit holder and the routes or areas requested for use. When form FS–7700–41 is issued, road maintenance requirements, road use schedules, and any necessary payments to be made in lieu of performance of maintenance developed from the data submitted on or with form FS–7700–40 are included in form FS–7700–41. When form FS–7700–NEW is issued, requirements resulting from data submitted with form FS–7700–40, such as requirements for signs and pilot cars when moving oversize vehicles, are included. A copy of form FS–7700–41 or form FS–7700–NEW must be carried in the holder's motor vehicle during use of the NFS roads, NFS trails, or areas on NFS lands covered by the permit.

Forms FS–7700–41, Non-Federal Commercial Road Use Permit, and FS–7700–NEW, Permit for Use of Roads, Trails, or Areas Restricted by Regulation or Order. Form FS–7700–41 has already been approved by the Office of Management and Budget (OMB). The Forest Service is seeking renewal of this approval. Form FS–7700–NEW is a new form. No information beyond that collected on form FS–7700–40 will be collected on forms FS–7700–41 and FS–7700–NEW.

Estimate of Annual Burden: 15 minutes per application.

Type of Respondents: All those who need to use NFS roads, NFS trails, or areas on NFS lands that are restricted by regulation or order.

Estimated Annual Number of Respondents: 20,000.

Estimated Annual Number of Responses per Respondent: One.

Estimated Total Annual Burden on Respondents: 5,000 hours.

Public Comment: Public comment is invited on (1) Whether this information collection is necessary for the stated purposes and the proper performance of the functions of the Agency, including whether the information will have practical or scientific utility; (2) the accuracy of the Agency's estimate of the burden of the information collection, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the information collection on respondents, including the use of automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

All comments received in response to this notice, including names and addresses when provided, will be a matter of public record. Comments will be summarized and included in the request for OMB approval of the information collection.

Dated: June 18, 2012.

James M. Peña,

Associate Deputy Chief, National Forest System.

[FR Doc. 2012–15784 Filed 6–27–12; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Rural Utilities Service

Announcement of Grant Application Deadlines and Funding Levels for the Assistance to High Energy Cost Rural Communities

AGENCY: Rural Utilities Service, USDA.

ACTION: Notice of funding availability (NOFA).

SUMMARY: The Rural Utilities Service (RUS), an agency of the United States Department of Agriculture (USDA), announces the availability of up to $7 million in Fiscal Year 2012 for competitive grants to assist communities with extremely high energy costs. This grant program is authorized under section 19 of the Rural Electrification Act of 1936 (RE Act) (7 U.S.C. 918a) and program regulations at 7 CFR part 1709. The grant funds may be used to acquire, construct, extend, upgrade, or otherwise improve energy generation, transmission, or distribution facilities serving communities in which the average residential expenditure for home energy exceeds 275 percent of the national average. Eligible applicants include persons, States, political subdivisions of States, and other entities organized under State law. Federally-recognized Indian Tribes and Tribal entities are eligible applicants. This notice describes the eligibility and application requirements, the criteria that will be used by RUS to award funding, and information on how to obtain application materials. The Catalog of Federal Domestic Assistance (CFDA) Number for this program is 10.859. You may obtain the Application Guide and materials for the Assistance to High Energy Cost Rural Communities Grant Program via the Internet at the following Web site: *http://www.rurdev.usda.gov/UEP_Our_Grant_Programs.html.* You may also request the Application Guide and materials from RUS by contacting the individual listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice.

DATES: You may submit completed grant applications on paper or electronically according to the following deadlines:

- Paper applications must be postmarked and mailed, shipped, or sent overnight, no later than July 30, 2012, or hand delivered to RUS by this deadline, to be eligible under this NOFA. Late or incomplete applications will not be eligible for FY 2012 grant funding.
- Electronic applications must be submitted through Grants.gov no later than midnight July 30, 2012 to be eligible under this NOFA for FY 2012 grant funding. Late or incomplete electronic applications will not be eligible.
- Applications will not be accepted by electronic mail.

Applications will be accepted upon publication of this notice until midnight (EST) of the closing date of July 30, 2012.

ADDRESSES: You may submit completed applications for grants on paper or electronically to the following addresses:

• Paper applications are to be submitted to the Rural Utilities Service, Electric Programs, United States Department of Agriculture, 1400 Independence Avenue SW., STOP 1560, Room 5165 South Building, Washington, DC 20250–1560. Applications should be marked ''Attention: High Energy Cost Grant Program.''

• Applications may be submitted electronically through Grants.gov. Information on how to submit applications electronically is available on the Grants.gov Web site (*http://www.Grants.gov*).

Application Guides and materials may be obtained electronically through: *http://www.rurdev.usda.gov/UEP_Our_Grant_Programs.html.* Call the RUS Electric Programs at (202) 720–9545 to request paper copies of Application Guides and other materials.

FOR FURTHER INFORMATION CONTACT: Kristi Kubista-Hovis, Senior Policy Advisor, Rural Utilities Service, Electric Programs, United States Department of Agriculture, 1400 Independence Avenue SW., STOP 1560, Room 5165 South Building, Washington, DC 20250–1560. Telephone 202–720–9545, Fax 202–690–0717, email *Kristi.kubista-hovis@wdc.usda.gov.*

SUPPLEMENTARY INFORMATION:

Overview Information

Federal Agency Name: United States Department of Agriculture, Rural Utilities Service.

Funding Opportunity Title: Assistance to High Energy Cost Rural Communities.

Announcement Type: Initial announcement.

Funding Opportunity Number: RD–RUS–HECG12.

Catalog of Federal Domestic Assistance (CFDA) Number: 10.859. The CFDA title for this program is ''Assistance to High Energy Cost Rural Communities.''

Dates: Applications must be postmarked and mailed or shipped, or hand delivered to the RUS, or filed with Grants.gov by July 30, 2012.

I. Funding Opportunity Description

The Rural Utilities Service (RUS) is making available up to $7 million in competitive grants under section 19 of the Rural Electrification Act of 1936 (the ''RE Act'') (7 U.S.C. 918a)., $2.5 million has been awarded to the Denali Commission.

This NOFA announces the availability of fiscal year 2012 grant funds, and provides an overview of the grant program, the eligibility and application requirements, and selection criteria for grant proposals. This NOFA specifies the high energy cost eligibility benchmarks and scoring criteria for fiscal year 2012 grants. Applicants are encouraged to review the notice carefully. RUS is also making available an Application Guide with more detailed information on application requirements and copies of all required forms and certifications. The Application Guide is available on the Internet from the RUS Web site at: *http://www.rurdev.usda.gov/UEP_Our_Grant_Programs.html.* The Application Guide may also be requested from the contact listed in the **FOR FURTHER INFORMATION CONTACT** section of this notice. For additional information, applicants should consult the program regulations at 7 CFR part 1709.

Definitions

Consult the program regulations at 7 CFR part 1709 and the Application Guide for additional definitions used in this program. As used in this NOFA:

Agency means the Rural Utilities Service (RUS) of the United States Department of Agriculture.

Application Guide means the Application Guide prepared by RUS for the High Energy Cost Grant program containing detailed instructions for preparing grant applications, and copies of required forms, questionnaires, and model certifications.

Area means the geographic area to be served by the grant.

Community means the unit or units of local government in which the area is located.

Extremely high energy costs means community average residential energy costs that meet or exceed one or more home energy cost benchmarks established by the Administrator at 275 percent of the national average residential energy expenditures as reported by the Energy Information Administration (EIA) of the United States Department of Energy.

Home energy means any energy source or fuel used by a household for purposes other than transportation, including electricity, natural gas, fuel oil, kerosene, liquefied petroleum gas (propane), other petroleum products, wood and other biomass fuels, coal, wind, and solar energy. Fuels used for subsistence activities in remote rural areas are also included.

High energy cost benchmarks means the criteria established by the Administrator for eligibility as an extremely high energy cost community. Home energy cost benchmarks are calculated for total annual household energy expenditures; total annual expenditures for individual fuels; annual average per unit energy costs for primary home energy sources and are set at 275 percent of the relevant national average household energy expenditures.

Indian Tribe means a Federally recognized Tribe as defined under section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b) to include ''* * * any Indian Tribe, band, nation, or other organized group or community, including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act [43 U.S.C. 1601 *et seq.*], that is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians.''

Person means any natural person, firm, corporation, association, or other legal entity, and includes Indian Tribes and Tribal entities.

Primary home energy source means the energy source that is used for space heating or cooling, water heating, cooking, and lighting. A household or community may have more than one primary home energy source.

State rural development initiative means a rural economic development program funded by or carried out in cooperation with a State agency or Indian Tribe.

Tribal entity means a legal entity that is owned, controlled, sanctioned, or chartered by the recognized governing body of an Indian Tribe.

II. Award Information

The total amount of funds available for High Energy Cost grants in Fiscal Year 2012 under this notice is $7 million. The maximum amount of grant assistance that will be awarded for funding in a grant application under this notice is $3,000,000. The minimum amount of assistance for a grant application under this program is $20,000. The number of grants awarded under this NOFA will depend on the number of complete applications submitted, the amount of grant funds requested, the quality and competitiveness of applications submitted, and the availability of funds. Applicants are limited to one award in any fiscal year. No funding is available for education and outreach.

The funding instrument available under this NOFA will be a grant agreement. Grants awarded under this notice must comply with all applicable

USDA and Federal regulations applicable to financial assistance, with the terms of this notice, and with the requirements of section 19 of the RE Act. Grants made under this NOFA will be administered under the RUS program regulations at 7 CFR part 1709 and USDA financial assistance regulations at 7 CFR parts 3015, 3016, 3017, 3018, 3019, and 3052, as applicable. The award period and period of performance will be from 1–3 years. Grant agreements will not be negotiated.

Applicants must provide a narrative grant proposal prepared according to the instructions in this NOFA and application guide, along with all required forms and information in order to submit a complete application.

No application submitted through a prior High Energy Cost Grant NOFA will be considered for 2012 funding. All prior applicants must resubmit a new application to be considered for funding under this NOFA. There will be no exceptions.

All timely submitted and complete applications will be reviewed for eligibility and rated according to the criteria described in this NOFA. Applications will be ranked in order of their numerical scores on the rating criteria and forwarded to the RUS Administrator. The RUS Administrator is the Federal Selection official of the competitive awards. The Administrator will review the rankings and the recommendations of the rating panel. The Administrator will then fund grant applications in rank order to the extent of available funds.

The RUS reserves the right not to award all the funds made available under this notice. RUS anticipates making multiple awards. Applicants should take proper care in preparing the project's scope and cost estimate. The proposed scope and cost will not be negotiated.

III. Eligibility Information

1. Eligible Applicants

Under Section 19 eligible applicants include ''Persons, States, political subdivisions of States, and other entities organized under the laws of States'' (7 U.S.C. 918a). Under section 13 of the RE Act, the term ''Person'' means ''any natural person, firm, corporation, or association'' (7 U.S.C. 913). Examples of eligible business applicants include: for-profit and non-profit business entities, including but not limited to corporations, associations, partnerships, limited liability partnerships (LLPs), cooperatives, trusts, and sole proprietorships. Eligible government applicants include State and local governments, counties, cities, towns, boroughs, or other agencies or units of State or local governments; and other agencies and instrumentalities of States and local governments. Indian Tribes, other Tribal entities and Alaska Native Corporations are also eligible applicants.

An individual is an eligible applicant under this program; however, the proposed grant project must provide community benefits and not be for the sole benefit of an individual applicant or an individual household or business.

All applicants must demonstrate the legal capacity of the applicant to execute a binding grant agreement with the Federal Government at the time of the award and to carry out the proposed grant funded project according to its terms.

Corporations that have been convicted of a felony (or had an officer or agency acting on behalf of the corporation convicted of a felony) within the past 24 months are not eligible. Any Corporation that has any unpaid federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability, is not eligible.

The Office of Management and Budget requires that all applicants for Federal grants with the exception of individuals other than sole proprietorships must provide a Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS) number when applying. Consistent with this Federal policy directive, any organization or sole proprietorship that applies for a high energy cost grant must use its DUNS number on the application and in the field provided on the revised Standard Form 424 (SF 424) ''Application for Federal Assistance'' to be eligible to apply. DUNS numbers are available for free to Federal Grant applicants on line at *http://fedgov.dnb.com/webform* or may be obtained through a short phone call to D&B. Please *see* the ''Get Registered'' section on Grants.gov for more information on how to obtain a DUNS number or how to verify if your organization already has a DUNS number. If you already have obtained a DUNS number in connection with the Federal acquisition process or requested or had one assigned to you for another purpose, you should use that number on all of your applications. It is not necessary to request another DUNS number from D&B.

In accordance with 2 CFR part 25, applicants, whether applying electronically or by paper, must be registered in the CCR prior to submitting an application. Applicants may register for the CCR at *https://www.uscontractorregistration.com/* or by calling 1–877–252–2700. Completing the CCR registration process takes up to five business days, and applicants are strongly encouraged to begin the process well in advance of the deadline specified in this notice.

The CCR registration must remain active, with current information, at all times during which an entity has an application under consideration by an agency or has an active Federal Award. To remain registered in the CCR database after the initial registration, the applicant is required to review and update, on an annual basis from the date of initial registration or subsequent updates, its information in the CCR database to ensure it is current, accurate and complete.

2. Cost Sharing and Matching

No cost sharing or matching funds are required as a condition of eligibility under this grant program. However, the RUS will consider other financial resources available to the grant applicant and any voluntary pledge of matching funds or other contributions in assessing the applicant's commitment and capacity to carry out the proposed project successfully include such contributions. If a successful applicant proposes to use matching funds or other cost contributions in its project, the grant agreement will include conditions requiring documentation of the availability of the matching funds and actual expenditure of matching funds or cost contributions. RUS may require the applicant to provide additional documentation confirming the availability of any matching contribution offered prior to approval of project selection. If an applicant fails to provide timely documentation of the availability of matching contributions, the RUS may, in its sole discretion, decline to award the project if uncertainties over availability of the match render the project financially unfeasible and impose additional conditions.

3. Other Eligibility Requirements

A. Eligible Projects

Grantees must use grant funds for eligible grant purposes. Grant funds may be used to acquire, construct, extend, upgrade, or otherwise improve energy generation, transmission, or distribution facilities serving eligible communities. All energy generation, transmission, and distribution facilities and equipment,

used to provide electricity, natural gas, home heating fuels, and other energy service to eligible communities are eligible. Projects providing or improving energy services to eligible communities through on-grid and off-grid renewable energy projects, energy efficiency, and energy conservation projects are eligible. A grant project is eligible if it improves, or maintains energy services, or reduces the costs of providing energy services to eligible communities. Grant funds may not be used to pay utility bills or to purchase fuels. Grants may cover up to the full costs of any eligible projects subject to the statutory condition that no more than 4 percent of grant funds may be used for the planning and administrative expenses of the grantee. The program regulations at 7 CFR part 1709 provide more detail on allowable uses of grant funds, limitations on grant funds, and ineligible grant purposes. The project must serve communities that meet the extremely high energy cost eligibility requirements described in this NOFA. The applicant must demonstrate that the proposed project will benefit the eligible communities. Projects that primarily benefit a single household or business are not eligible. Additional information and examples of eligible project activities are contained in the Application Guide.

Grant funds cannot be used for: Preparation of the grant application, fuel purchases, routine maintenance or other operating costs, and purchase of equipment, structures, or real estate not directly associated with provision of residential energy services. In general, grant funds may not be used to support projects that primarily benefit areas outside of eligible communities. However, grant funds may be used to finance an eligible community's proportionate share of a larger energy project. Grant funds may not be used to refinance or repay the applicant's outstanding loans or loan guarantees under the Rural Electrification Act of 1936, as amended.

Each grant applicant must demonstrate the economic and technical feasibility of its proposed project. Activities or equipment that would commonly be considered as research and development activities, or commercial demonstration projects for new energy technologies will not be considered as technologically feasible projects and would, thus, be ineligible grant purposes. However, grant funds may be used for projects that involve the innovative use or adaptation of energy-related technologies that have been commercially proven. RUS, in its sole discretion, will determine if a project relies on unproven technology, and that determination shall be final.

B. Eligible Communities

The grant project must benefit communities with extremely high energy costs. The RE Act defines an extremely high energy cost community as one in which ''the average residential expenditure for home energy is at least 275 percent of the national average residential expenditure for home energy'' 7 U.S.C. 918a. The benchmarks are set based on the latest available information from the Energy Information Administration (EIA) residential energy surveys.

The statutory requirement that community residential expenditures for home energy exceed 275 percent of national average establishes a very high threshold for eligibility under this program. RUS has calculated high energy cost benchmarks based on the most recent EIA national average home energy expenditure data. The current benchmarks are shown in Table 1. Applicants must demonstrate that proposed communities must meet one or more high energy cost benchmarks to qualify as an eligible beneficiary of a grant under this program. All applications must meet these current eligibility benchmarks for high energy. Based on available published information on residential energy costs, RUS anticipates that only those communities with the highest energy costs across the country will qualify.

The EIA's Residential Energy Consumption and Expenditure Surveys (RECS) and reports provide the baseline national average household energy costs that were used for establishing extremely high energy cost community eligibility criteria for this grant program. The RECS data base and reports provide national and regional information on residential energy use, expenditures, and housing characteristics. EIA published its latest available RECS home energy expenditure survey results in 2009. These estimates of home energy usage and expenditures are based on national surveys conducted in 2005 survey data and are shown in Table 1 as follows:

TABLE 1—NATIONAL AVERAGE ANNUAL HOUSEHOLD ENERGY EXPENDITURES AND EXTREMELY HIGH ENERGY COST ELIGIBILITY BENCHMARKS EFFECTIVE FOR APPLICATIONS SUBMITTED ON OR AFTER JUNE 28, 2012

Fuel	EIA 2005 national annual average household expenditure $ per year	RUS extremely high energy cost benchmark 275% of national average $ per year
Average Annual Household Expenditure		
Electricity	1,123	3,010
Natural Gas	754	1,988
Fuel Oil	1,518	3,921
LPG/Propane	875	2,256
Total Household Energy Use	1,810	4,860
Fuel (units)	EIA 2005 national average unit cost $ per unit	RUS extremely high energy cost benchmark 275% of national average $ per unit
Annual Average per Unit Residential Energy Costs		
Electricity (kilowatt hours)	0.10	0.264
Natural Gas (thousand cubic feet)	11.24	30.30
Fuel Oil (gallons)	2.04	5.54
LPG/Propane (gallons)	1.92	5.10

Fuel (units)	EIA 2005 national average unit cost $ per unit	RUS extremely high energy cost benchmark 275% of national average $ per unit
Total Household Energy (million Btus)	19.07	51.62

Sources: Energy Information Administration, United States Department of Energy, *2005 Residential Energy Consumption Survey—Detailed Tables,* available at: *http://www.eia.doe.gov/emeu/recs/recs2005/c&e/detailed_tables2005c&e.html.*

The RUS benchmarks calculations include adjustments to reflect the uncertainties inherent in EIA's statistical methodology for estimating home energy costs. The benchmarks are set based on the EIA's lower range estimates using the specified EIA methods.

Extremely high energy costs in rural and remote communities typically result from a combination of factors including high energy consumption, high per unit energy costs, limited availability of energy sources, extreme climate conditions, and housing characteristics. The relative impacts of these conditions exhibit regional and seasonal diversity. Market factors have created an additional complication in recent years as the prices of the major commercial residential energy sources—electricity, fuel oil, natural gas, and LPG/propane—have fluctuated dramatically in some areas.

The applicant must demonstrate that each community in the grant project's proposed area exceeds one or more of these high energy cost benchmarks to be eligible for a grant under this program.

i. High Energy Cost Benchmarks

The benchmarks measure extremely high energy costs for residential consumers. These benchmarks were calculated using EIA's estimates of national average residential energy expenditures per household and by primary home energy source. The benchmarks recognize the diverse factors that contribute to extremely high home energy costs in rural communities. The benchmarks allow extremely high energy cost communities several alternatives for demonstrating eligibility. Communities may qualify based on: Total annual household energy expenditures; total annual expenditures for commercially-supplied primary home energy sources, *i.e.,* electricity, natural gas, oil, or propane; or average annual per unit home energy costs. By providing alternative measures for demonstrating eligibility, the benchmarks reduce the burden on potential applicants created by the limited public availability of comprehensive data on local community energy consumption and expenditures.

A community or area will qualify as an extremely high cost energy community if it meets one or more of the energy cost eligibility benchmarks described below.

a. *Extremely High Average Annual Household Expenditure for Home Energy.* The area or community exceeds one or more of the following:

- Average annual residential electricity expenditure of $3,010 per household;
- Average annual residential natural gas expenditure of $1,988 per household;
- Average annual residential expenditure on fuel oil of $3,921 per household;
- Average annual residential expenditure on propane or liquefied petroleum gas (LPG) as a primary home energy source of $2,256 per household; or
- Average annual residential energy expenditure (for all non-transportation uses) of $4,860 per household.

b. *Extremely High Average per unit energy costs.* The average residential per unit cost for major commercial energy sources in the area or community exceeds one or more of the following:

- Annual average revenues per kilowatt hour for residential electricity customers of $0.264 per kilowatt hour (kWh);
- Annual average residential natural gas price of $30.30 per thousand cubic feet;
- Annual average residential fuel oil price of $5.54 per gallon;
- Annual average residential price of propane or LPG as a primary home energy source of $5.10 per gallon; or
- Total annual average residential energy cost on a Btu basis of $51.62 per million Btu.[1]

ii. Supporting Energy Cost Data

The applicant must include information that demonstrates its eligibility under RUS's high energy cost benchmarks for the communities and areas. The applicant must supply documentation or references for its sources for actual or estimated home energy expenditures or equivalent measures to support eligibility. Generally, the applicant will be expected to use historical residential energy cost or expenditure information for the local energy provider serving the community or area to determine eligibility. Other potential sources of home energy related information include Federal and State agencies, local community energy providers such as electric and natural gas utilities and fuel dealers, and commercial publications. The Application Guide includes a list of EIA resources on residential energy consumption and costs that may be of assistance.

The grant applicant must establish eligibility for each community in the project's area. To determine eligibility, the applicant must identify each community included in whole or in part within the areas and provide supporting actual or estimated energy expenditure data for each community. The smallest area that may be designated as an area is a 2010 Census block. This minimum size is necessary to enable a determination of population size.

Potential applicants can compare the benchmark criteria to available information about local energy use and costs to determine their eligibility. Applicants should demonstrate their eligibility using historical energy use and cost information. Where such information is unavailable or does not adequately reflect the actual costs of supporting average home energy use in a local community, RUS will consider estimated commercial energy costs. The Application Guide includes examples of circumstances where estimated energy costs are used.

EIA does not collect or maintain data on home energy expenditures in sufficient detail to identify specific rural localities as extremely high energy cost communities. Therefore, grant applicants will have to provide information on local community energy costs from other sources to support their applications.

In many instances, historical community energy cost information can be obtained from a variety of public sources or from local utilities and other energy providers. For example, EIA publishes monthly and annual reports of residential prices by State and by service area for electric utilities and larger natural gas distribution companies. Average residential fuel oil

[1] Note: Btu is the abbreviation for British thermal unit, a standard energy measure. A Btu is the quantity of heat needed to raise the temperature of one pound of water 1 degree Fahrenheit at or near 39.2 degrees Fahrenheit.

and propane prices are reported regionally and for major cities by government and private publications. Many State agencies also compile and publish information on residential energy costs to support State programs.

iii. Use of Estimated Home Energy Costs

Where historical community energy cost data are incomplete or lacking or where community-wide data do not accurately reflect the costs of providing home energy services in the area, the applicant may substitute estimates based on engineering standards. The estimates should use available community, local, or regional data on energy expenditures, consumption, housing characteristics and population. Estimates are also appropriate where the area does not presently have centralized commercial energy services at a level that is comparable to other residential customers in the State or region. For example, local commercial energy cost information may not be available where the area is without local electric service because of the high costs of connection. Engineering cost estimates reflecting the incremental costs of extending service could reasonably be used to establish eligibility for areas without grid-connected electric service. Estimates also may be appropriate where historical energy costs do not reflect the costs of providing a necessary upgrade or replacement of energy infrastructure to maintain or extend service that would raise costs above one or more benchmarks. Information to support high energy cost eligibility is subject to independent review by RUS. Applications that contain information that is not reasonably based on credible sources of information and sound estimates will be rejected. Where appropriate, RUS may consult standard sources to confirm the reasonableness of information and estimates provided by an applicant in determining eligibility, technical feasibility, and adequacy of proposed budget estimates.

C. Limitations on Grant Awards

i. Statutory Limitation on Planning and Administrative Expenses

Section 19 of the RE Act provides that no more than 4 percent of the grant funds for any project may be used for the planning and administrative expenses of the grantee that are not directly related to the grant project.

ii. Ineligible Grant Purposes

Grant funds cannot be used for: Preparation of the grant application, fuel purchases, routine maintenance or other operating costs, and purchase of equipment, structures, or real estate not directly associated with provision of residential energy services. In general, grant funds may not be used to support projects that primarily benefit areas outside of eligible communities. However, grant funds may be used to finance an eligible community's proportionate share of a larger energy project.

Consistent with USDA policy and program regulations, grant funds awarded under this program generally cannot be used to replace other USDA assistance or to refinance or repay outstanding loans under the RE Act. Grant funds may, however, be used in combination with other USDA assistance programs including electric loans. Grants may be applied toward grantee contributions under other USDA programs depending on the specific terms of those programs. For example, an applicant may propose to use grant funds to offset the costs of electric system improvements in extremely high cost areas by increasing the utility's contribution for line extensions or system expansions to its distribution system financed in whole or part by an electric loan under the RE Act. An applicant may propose to finance a portion of an energy project for an extremely high energy cost community through this grant program and secure the remaining project costs through a loan or loan guarantee from RUS or grant other sources. The determination of whether a project will be completed in this manner will be made solely by the Administrator.

iii. Maximum and Minimum Awards

The maximum amount of grant assistance that will be considered for funding per grant application under this notice is $3,000,000. The minimum amount of assistance for a competitive grant application under this program is $20,000.

IV. Application and Submission Information

All applications must be prepared and submitted in compliance with this NOFA and the Application Guide. The Application Guide contains additional information on the grant program, sources of information for use in preparing applications, examples of eligible projects, and copies of the required application forms.

1. Address To Request an Application Package

Applications materials and the Application Guide are available for download through *http://www.Grants.gov* (under CFDA No. 10.859) and on the Electric Programs Web site at: *http://www.rurdev.usda.gov/UEP_Our_Grant_Programs.html.*

Application packages, including required forms, may be also be requested from: Kristi Kubista-Hovis, Senior Policy Advisor, United States Department of Agriculture, Rural Development Utilities Programs, Electric Program, 1400 Independence Avenue SW., STOP 1560, Room 5165, South Building, Washington, DC 20250–1560. Telephone 202–720–9545, Fax 202–690–0717, email *kristi.kubista-hovis@wdc.usda.gov.*

2. Content and Form of Application Submission

Applicants must follow the directions in this notice and the Application Guide in preparing their applications and narrative proposals. The completed application package should be assembled in the order specified with all pages numbered sequentially or by section.

A. Application Contents

Applicants must submit the following information for the application to be complete and considered for funding:

i. Formatting and length of application. All applications must be on single sided pages and all pages must be numbered. Only numbered pages will be reviewed. All applications are limited to the page limits specified by each section in this NOFA. Any additional pages greater than what is specified in this NOFA will not be reviewed and considered.

ii. Part A. A Completed SF 424, ''Application for Federal Assistance.'' This form must be signed by a person authorized to submit the proposal on behalf of the applicant. **Note:** SF 424 has recently been revised to include new required data elements, including a DUNS number. You must submit the revised form. Copies of this form are available in the application package available on line through RUS's Web site or through Grants.gov, or by request from the RUS contact listed above.

iii. Part B. Grant Eligibility (3 pages total). The Grant Eligibility is a narrative section that establishes the applicant's eligibility.

a. Project Abstract and Eligibility. This section provides a summary of the proposed project. The project must be described in sufficient detail to establish that it is an eligible project according to this NOFA.

b. Applicant Eligibility. This section includes a narrative statement that identifies the applicant and supporting evidence establishing that the applicant has or will have the legal authority to

enter into a financial assistance relationship with the Federal Government. Applicants must also be free of any debarment or other restriction on their ability to contract with the Federal government. Corporations that have been convicted of a felony (or had an officer or agency acting on behalf of the corporation convicted of a felony) within the past 24 months are not eligible. Any Corporation that has any unpaid federal tax liability that has been assessed, for which all judicial and administrative remedies have been exhausted or have lapsed, and that is not being paid in a timely manner pursuant to an agreement with the authority responsible for collecting the tax liability is not eligible.

3. *Community Eligibility.* This section provides a narrative description of the community or communities to be served by the project and supporting information to establish eligibility. The narrative must show that the proposed grant project's area or areas are located in one or more communities where the average residential energy costs exceed one or more of the benchmark criteria for extremely high energy costs as described in this NOFA. The narrative should clearly identify the location and population of the areas to be aided by the grant project and their energy costs and the population of the local government division in which they are located. Local energy providers and sources of high energy cost data and estimates should be clearly identified. Neither the applicant nor the project must be physically located in the extremely high energy cost community, but the funded project must serve an eligible community. The population estimates should be based on the results of the 2010 Census available from the U.S. Census Bureau. Additional information and exhibits supporting eligibility may include maps, summary tables, and references to statistical information from the U.S. Census, the Energy Information Administration, other Federal and State agencies, or private sources. The Application Guide includes additional information and sources that the applicant may find useful in establishing community eligibility.

iv. Part C. Grant Proposal (maximum of 30 pages). The grant proposal is a narrative description prepared by the applicant that describes the proposed grant project, the potential benefits of the project, and a proposed budget. The grant proposal should contain the following sections in the order indicated.

a. *Executive Summary (1 page).* The Executive Summary is a one page narrative summary that: (a) Identifies the applicant, project title, and the key contact person with telephone and fax numbers, mailing address and email address; (b) specifies the amount of grant funds requested; and (c) provides a brief description of the proposed project including the eligible rural communities and residents to be served, activities and facilities to be financed, and how the grant project will offset or reduce the community's extremely high energy costs.

b. *Project Needs (2 pages).* This section is a narrative that describes the needs of the community; identifying if it is deemed an economic hardship community or if the community is facing an imminent hazard. A community facing economic hardship is defined as a situation where the 2000 median household income for the community is 20 percent below the State average or where the community suffers from economic conditions that severely constrain its ability to provide or improve energy facilities serving the community. Projects focused in correcting an imminent hazard are defined as projects that will correct a condition posing an imminent hazard to public safety, public welfare, the environment, or to a critical community or residential energy facility in immediate danger of failure because of a deteriorated condition, capacity limitation, or damage from a natural disaster or accident. Applicants must describe in detail and document conditions creating severe community economic hardship or imminent hazard in the proposal.

c. *Project Description (Design) (5 pages):* This section must provide a narrative description of the project including a proposed scope of work identifying major tasks and proposed schedules for task completion, a detailed description of the equipment, facilities and associated activities to be financed with grant funds, the location of the eligible extremely high energy cost communities to be served, and an estimate of the overall duration of the project. The Project Design description should be sufficiently detailed to support a finding of technical feasibility. Proposed projects involving construction, repair, replacement, or improvement of electric generation, transmission, and distribution facilities must generally be consistent with the standards and requirements for projects financed with loans and loan guarantees under the RE Act as set forth in RUS's Electric Programs Regulations and Bulletins and may reference these requirements.

d. *Project Goals and Objectives and Project Performance Measures (2 pages):* The applicant should clearly identify how the project addresses the energy needs of the community and include appropriate measures of project success such as, for example, expected reductions in household or community energy costs, avoided cost increases, enhanced reliability, or economic or social benefits from improvements in energy services available to the community. The applicant should include quantitative estimates of cost or energy savings and other benefits. The applicant should provide documentation or references to support its statements about cost-effectiveness savings and improved services. The applicant should also describe how it plans to measure and monitor the effectiveness of the program in delivering its projected benefits.

e. *Project Management (8 pages):* This section must provide a narrative describing the applicant's capabilities and project management plans. The description should be broken down into the following subsections:

1. *Management Plan and Schedule (2 pages).* This subsection should include the application's organizational structure, method of funding, if the applicant proposes to use affiliated entities, and production schedule in implementing the grant award. If the applicant proposes to secure equipment, design, construction, or other services from non-affiliated entities, the applicant must briefly describe how it plans to procure and/or contract for such equipment or services. The applicant should provide information that will support a finding that the combination of management team's experience, financial management capabilities, resources and project structure will enable successful completion of the project.

A. *Project Reporting Plan (2 pages).* This subsection should provide a detailed description of the reporting requirements as well as consequences if the project falls behind.

B. *Relevant Organizational Experience (2 pages).* This subsection should include a detailed description of the organization that will install or implement the proposed projects. Information on success rates, past project long term viability, and consumer complaints are required. If the applicant has received any HECG funding, or other Federal funding a detailed description of past performance is required in this section.

C. *Key Staff Experience (2 pages).* This subsection requires bio/descriptions of all key staff and must be

provided. If the applicant proposes to use affiliated entities, contractors, or subcontractors to provide services funded under the grant, the applicant must describe the identities, relationship, qualifications, and experience of these affiliated entities. The experience and capabilities of these entities will be reviewed by the rating panel.

f. *Regulatory and other approvals (2 pages).* The applicant must identify any other regulatory or other approvals required by other Federal, State, local, or Tribal agencies, or by private entities as a condition of financing that are necessary to carry out the proposed grant project and its estimated schedule for obtaining the necessary approvals. Prior to the obligation of any funds for the selected proposals, applicants will be required to gather specific information in order for RUS to comply with the National Environmental Policy Act of 1969 (NEPA) and National Historic Preservation Act (NHPA), for which the provision of funding is considered an undertaking subject to review. The environmental information that must be supplied by the applicant can be found in the environmental report in the application materials.

g. *Rural development initiatives (1 page).* The narrative should describe whether and how the proposed project will support any State rural development initiatives. If the project is in support of a rural development initiative, the application should include confirming documentation from the appropriate rural development agency. The application must identify the extent to which the project is dependent upon or tied to other rural development initiatives, funding and approvals. The applicant should also clarify if they are located in a rural community of less than 20,000 people. Projects that do not support a State rural development initiative, but are located in communities of less than 20,000, will still receive the full 5 points.

h. *Proposed Project Budget (4 pages).* The applicant must submit a proposed budget for the grant program on SF 424A, ''Budget Information—Non-Construction Programs'' or SF–424C, ''Standard Form for Budget Information-Construction Programs,'' as applicable. All applicants that submit applications through Grants.gov must use SF–424A. The applicant should supplement the budget summary form with more detailed information describing the basis for cost estimates. The detailed budget estimate should itemize and explain major proposed project cost components such as, but not limited to, the expected costs of design and engineering and other professional services, personnel costs (salaries/wages and fringe benefits), equipment, materials, property acquisition, travel (if any), and other direct costs, and indirect costs, if any. The budget must document that planned administrative and other expenses of the project sponsor that are not directly related to performance of the grant will not total more than 4 percent of grant funds. The applicant must also identify the source and amount of any other Federal or non-Federal contributions of funds or services that will be used to support the proposed project.

i. *Supplementary Material (5 pages).* Only letters of Support will be accepted as Supplementary materials. No other additional information will be accepted or reviewed. Letters from congress will not be counted against the page limitation.

v. Part D. Additional Required Forms and Certifications. In order to establish compliance with other Federal requirements for financial assistance, the applicant must execute and submit with the initial application the following forms and certifications:

- SF 424B, ''Assurances—Non-Construction Programs'' or SF 424D, ''Assurances—Construction Programs'' (as applicable). All applicants applying through Grants.gov must use form SF 424B.
- SF LLL, ''Disclosure of Lobbying Activities.''
- ''Certification Regarding Debarment, Suspension and Other Responsibility Matter—Primary Covered Transactions'' as required under 7 CFR part 3017, Appendix A. Certifications for individuals, corporations, nonprofit entities, Indian Tribes, partnerships.
- Environmental Report. The RUS environmental report template included in the Application Guide solicits information about project characteristics and site-specific conditions that may involve environmental, historic preservation, and other resources. The information will be used by RUS's environmental staff to determine what, if any, additional environmental impact analyses may be necessary before a final grant award may be approved. A copy of the environmental report and instructions for completion are included in the Application Guide and may be downloaded from RUS's Web site or Grants.gov.

3. Additional Information Requests

In addition to the information required to be submitted in the application package, the RUS may request that successful grant applicants provide additional information, analyses, forms and certifications before the grant agreement is signed and funds are obligated but after the award is subject to any environmental reviews or other reviews or certifications required under USDA and Government-wide assistance regulations. The RUS will advise the applicant in writing of any additional information required.

4. Submitting the Application

Applicants that are submitting paper application packages must submit one original application package that includes original signatures on all required forms and certifications and two copies. Applications should be submitted on 8½ by 11 inch white paper.

A completed paper application package must contain all required parts in the order indicated in the above section on ''Content and Form of Application Submission.'' The application package should be paginated either sequentially or by section. Applicants are requested to provide the application package in single-sided format for ease of copying.

Applicants that are submitting application packages electronically through the Federal grants portal Grants.gov (*http://www.Grants.gov*) must follow the application requirements and procedures and submit all the forms in the application package provided there. The Grants.gov Web site contains full instructions on all required registration, passwords, credentialing and software required to submit applications electronically. Grants.gov has streamlined the registration and credentialing process and now requires separate application processes for individuals and organizations. Individual applicants, including individuals applying on behalf of an organization, should follow the special directions for individuals on the Grants.gov Web site. Organizational applicants and sole proprietorships should follow the instructions for organizations.

Organizational applicants are advised that completion of the requirements for registration with Grants.gov, with the Central Contractor Registry, and e-Authentication required under Grants.gov may take a week or more and may be delayed. Accordingly, RUS strongly recommends that you complete your organization's registration with Grants.gov well in advance of the deadline for submitting applications.

USDA encourages both individual and organizational applicants who wish to apply through Grants.gov to submit their applications well in advance of the deadlines. Early submittal will give you

time to resolve any system problems or technical difficulties with an electronic application through the customer support resources available at the Grants.gov Web site while preserving the option of submitting a timely paper application if any difficulties cannot be resolved.

5. Disclosure of Information

All material submitted by the applicant may be made available to the public in accordance with the Freedom of Information Act (5 U.S.C. 552) and USDA's implementing regulations at 7 CFR part 1.

6. Submission Dates and Times

Applications must be postmarked or hand delivered to the RUS or posted to Grants.gov by July 30, 2012. RUS will begin accepting applications on the date of publication of this NOFA. RUS will accept for review all applications postmarked or delivered to us by this deadline. Late or incomplete applications will not be considered and discarded.

For the purposes of determining the timeliness of an application the RUS will accept the following as valid postmarks: the date stamped by the United States Postal Service on the outside of the package containing the application delivered by U.S. Mail; the date the package was received by a commercial delivery service as evidenced by the delivery label; the date received via hand delivery to the RUS headquarters; and the date an electronic application was posted for submission to Grants.gov.

7. Intergovernmental Review

This program is not subject to the requirements of Executive Order 12372, ''Intergovernmental Review of Federal Programs,'' as implemented under USDA's regulations at 7 CFR part 3015.

8. Other Submission Requirements

A completed application must contain all required parts in the order indicated in the above section on ''Content and Form of Application Submission.'' The application package should be paginated either sequentially or by section.

The completed paper application package and two copies must be delivered to the RUS headquarters in Washington, DC, using United States Mail, overnight delivery service, or by hand to the following address: Rural Utilities Service, Electric Programs, United States Department of Agriculture, 1400 Independence Avenue SW., STOP 1560, Room 5165 South Building, Washington, DC 20250– 1560. Applications should be marked ''Attention: High Energy Cost Community Grant Program.''

Applicants are advised that regular mail deliveries to Federal Agencies, especially of oversized packages and envelopes, continue to be delayed because of increased security screening requirements. Applicants may wish to consider using Express Mail or a commercial overnight delivery service instead of regular mail. Applicants wishing to hand deliver or use courier services for delivery should contact an RUS representative in advance to arrange for building access. The RUS advises applicants that because of intensified security procedures at government facilities that any electronic media included in an application package may be damaged during security screening. If an applicant wishes to submit such materials, they should contact an RUS representative for additional information.

After the grant application deadline has passed, USDA will send an electronic confirmation acknowledging that the application has been received by the RUS from Grants.gov. Grants.gov will not accept applications for filing after the deadline has passed. RUS will not accept applications directly over the Internet, by email, or fax.

Applicants should be aware that Grants.gov requires that applicants complete several preliminary registrations and e-authentication requirements before being allowed to submit applications electronically. Applicants should consult the Grants.gov Web site and allow ample time to complete the steps required for registration before submitting their applications. Applicants may download application materials and complete forms online through Grants.gov without completing the registration requirements. Application materials prepared online may be printed and submitted in paper to RUS as detailed above.

9. Multiple Applications

Eligible applicants must include only one project per application, but the project can include many locations. No more than $3 million in grant funds will be awarded per project application. Unlike prior HECG NOFAs, an applicant will only be awarded funding for one project under this NOFA. An applicant will not receive funding for numerous projects under this NOFA.

V. Application Review Information

After the application closing date, RUS will not consider any unsolicited information from the applicant. The RUS may contact the applicant for additional information or to clarify statements in the application required to establish applicant or community eligibility and completeness. Only applications that are complete and meet the eligibility criteria will be considered. The RUS will not accept or solicit any additional information relating to the technical merits and feasibility of the grant proposal after the application closing date.

If the RUS determines that an application package was not delivered to RUS or postmarked on or before the deadline of July 30, 2012, the application will be rejected as untimely.

After review, the RUS will reject any application package that in its sole discretion determines is not complete or that does not demonstrate that the applicant, community or project is eligible under the requirements of this NOFA and program regulations. Applicants will be notified in writing of RUS's decision. Applicants may appeal the rejection pursuant to program regulations on appeals at 7 CFR 1709.6. The appeal must be made in writing to the RUS Administrator within 10 days after the applicant is notified of the determination to reject the application. The appeal must state the basis for the appeal. Under 7 CFR 1709.6, appeals must be directed to the Administrator, Rural Utilities Service, United States Department of Agriculture, 1400 Independence Ave., SW., STOP 1500, Washington, DC 20250–1500. The Administrator will review the appeal to determine whether to sustain, reverse, or modify the original determination by the Assistant Administrator. The Administrator's decision shall be final. A written copy of the Administrator's decision will be furnished promptly to the applicant.

The RUS may establish one or more rating panels to review and rate the eligible grant applications. These panels may include persons not currently employed by USDA.

The panel will evaluate and rate all complete applications that meet the eligibility requirements using the selection criteria and weights described in this NOFA. As part of the proposal review and ranking process, panel members may make comments and recommendations for appropriate conditions on grant awards to promote successful performance of the grant or to assure compliance with other Federal requirements. The decision to include panel recommendations on grant conditions in any grant award will be at the sole discretion of the RUS Administrator.

All applications will be scored and ranked according to the evaluation and scoring criteria described in this Notice. The evaluation and scoring criteria differ from those used in prior NOFAs. The RUS will use the ratings and recommendations of the panel to rank applicants against other applicants. All applicants will be ranked according to their scores in this round. The rankings and recommendations will then be forwarded to the Administrator for final review and selection.

Decisions on grant awards will be made by the RUS Administrator based on the application, and the rankings and recommendations of the rating panel.

The Administrator will fund grant requests in rank order to the extent of available funds. If sufficient funds are not available to fund the next ranked project, the Administrator may, in his sole discretion, skip over that project to the next ranking project that can be fully funded with available funding.

1. Scoring Criteria

The RUS will use the selection criteria described in this NOFA to evaluate and rate applications. Applications will be reviewed in two rounds, the first round determines eligibility and the second round scores the application.

A. Determining Eligibility

To determine if the project is eligible, a review panel will look only at the three page document, Part B: Grant Eligibility, which is described in this NOFA and includes narrative on the Project, Applicant, and Community eligibility. No points will be awarded in this round of review. The application is only determined to be eligible or not eligible. Applicants that are determined to be ineligible will be notified and have 10 days to appeal the decision.

B. Scoring Eligible Applicants

The total possible score is 100, and the applicant will be scored only on Part C: Grant Proposal as described in this NOFA. The following are the scored sections and their associated point totals:

	Points
Executive Summary	0
Project Needs	15
Project Description (Design)	30
Project Goals and objectives and Project Performance Measures	10
Project Management	30
Management Plan and Schedule, (a subset of Project Management)	10
Project Reporting Plan (a subset of Project Management)	5
Relevant Organizational Experience (a subset of Project Management)	5
Key Staff Experience (a subset of Project Management)	10
Regulatory and other approvals	0
Rural development initiatives	5
Proposed Project Budget	10
Supplementary Material	0
Total	100 points

2. Review and Selection Process

A. Applications will be scored and ranked according to the evaluation criteria and weights referenced above by a panel. The scored and ranked applications and the raters' comments will then be forwarded to the Administrator for review and selection of grant awards.

B. Selection of Grant Awards and Notification of Applicants

The RUS Administrator will review the rankings and recommendations of the applications provided by the rating panel for consistency with the requirements of this NOFA. The Administrator may return any application to the rating panel with written instruction for reconsideration if, in his sole discretion, he finds that the scoring of an application is inconsistent with this NOFA and the directions provided to the rating panel.

Following any adjustments to the project rankings as a result of reconsideration, the Administrator will select projects for funding in rank order. If two projects from the same applicant score high enough to potentially receive funding, the Administrator will skip the lower scoring project; not fund the project.

The Administrator may decide based on the recommendations of the rating panel or in his sole discretion that a grant award may be made contingent upon the applicant satisfying certain conditions. For example, RUS will not obligate funding for a selected project—such as projects requiring extensive environmental review and mitigation, preparation of detailed site specific engineering studies and designs, or requiring local permitting, or availability of supplemental financing—until any additional conditions are satisfied. In the event that a selected applicant fails to comply with the conditions within the time set by RUS, the award will be terminated.

The RUS will notify each applicant in writing whether or not it has been selected for an award. The RUS written notice to a successful applicant of the amount of the grant award based on the approved application will constitute RUS's acceptance of a project for an award, subject to compliance with all post-award requirements including but not limited to completion of any environmental reviews and execution of a grant agreement satisfactory to the RUS. This acceptance does not bind the Government to making a final grant award. Only an agreement executed by the Administrator will constitute a binding obligation and commitment of Federal funds. Funds will not be awarded or disbursed until all requirements have been satisfied and are contingent on the continued availability of funds at the time of the award. The RUS will advise selected applicants of additional requirements or conditions.

VI. Award Administration Information

1. Award Notices

The RUS will notify all applicants in writing whether they have been selected for an award. Successful applicants will be advised in writing of their selection. Successful applicants will be required to execute an RUS grant agreement and complete additional grant forms and certifications required by USDA as part of the process.

Depending on the nature of the activities proposed by the application, the grantee may be asked to provide information and certifications necessary for compliance with RUS' Environmental Policies and Procedures at 7 CFR part 1794. Following completion of the environmental review process, selected applicants will receive a letter articulating the grant agreement and asked to execute a letter of intent to meet the grant conditions. Grant funds will not be advanced unless and until the applicant has executed a grant agreement and funds will not be advanced until all conditions have been satisfied in a manner satisfactory to RUS.

2. Administrative and National Policy Requirements

A. Environmental Review and Restriction on Certain Activities

Grant awardees will be required to submit the appropriate environmental review documentation, as outlined in the environmental report and any other following environmental impact analyses required by RUS Environmental Policies and Procedures (7 CFR Part 1794) Grantees must also agree to comply with any other Federal or State environmental laws and regulations applicable to the grant project.

In accordance with § 1794.15, applicants are restricted from taking actions that may have an adverse environmental impact or limit the choice of alternatives being considered until the environmental review process is concluded. If an applicant takes such actions, RUS will not advance grant funds. If the proposed grant project involves physical development activities or property acquisition, the applicant is generally prohibited from acquiring, rehabilitating, converting, leasing, repairing or constructing property or facilities, or committing or expending RUS or non-RUS funds for proposed grant activities until the RUS has completed any environmental review in accordance with 7 CFR part 1794 or determined that no environmental review is required. Successful applicants will be advised whether additional environmental review requirements apply to their proposals.

B. Other Federal Requirements

Other Federal statutes and regulations apply to grant applications and to grant awards. These include, but are not limited to, requirements under 7 CFR part 15, subpart A—Nondiscrimination in Federally Assisted Programs of the Department of Agriculture—Effectuation of Title VI of the Civil Rights Act of 1964.

Certain Office of Management and Budget (OMB) circulars also apply to USDA grant programs and must be followed by a grantee under this program. The policies, guidance, and requirements of the following, or their successors, may apply to the award, acceptance and use of assistance under this program and to the remedies for noncompliance, except when inconsistent with the provisions of the Agriculture, Rural Development and Related Agencies' Appropriations Acts, other Federal statutes or the provisions of this NOFA:

- OMB Circular No. A–87 (Cost Principles Applicable to Grants, Contracts and Other Agreements with State and Local Governments);
- OMB Circular A–21 (Cost Principles for Education Institutions);
- OMB Circular No. A–122 (Cost Principles for Nonprofit Organizations);
- OMB Circular A–133 (Audits of States, Local Governments, and Non-Profit Organizations);
- 7 CFR part 3015 (Uniform Federal Assistance Regulations);
- 7 CFR part 3016 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State, Local, and Federally recognized Indian Tribal governments);
- 7 CFR part 3017 (Government-wide debarment and suspension (non-procurement) and Government-wide requirements for drug-free workplace (grants));
- 7 CFR part 3018 (New restrictions on Lobbying);
- 7 CFR part 3019 (Uniform administrative requirements for grants and Agreements with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations); and
- 7 CFR part 3052 (Audits of States, local governments, and non-profit organizations).

Compliance with additional OMB Circulars or government-wide regulations may be specified in the grant agreement.

3. Reporting

The grantee will be required to provide periodic financial and performance reports under USDA grant regulations and program rules and to submit a final project performance report. The nature and frequency of required reports are established in USDA grant regulations and the project-specific grant agreements.

The applicant must have the necessary processes and systems in place to comply with the reporting requirements for first-tier sub-awards and executive compensation under the Federal Funding Accountability and Transparency Act of 2006 in the event the applicant receives funding unless such applicant is exempt from such reporting requirements pursuant to 2 CFR part 170, § 170.110(b). The reporting requirements under the Transparency Act pursuant to 2 CFR part 170 are as follows:

A. First Tier Sub-Awards of $25,000 or more in non-Recovery Act funds (unless they are exempt under 2 CFR Part 170) must be reported by the Recipient to *http://www.fsrs.gov* no later than the end of the month following the month the obligation was made.

B. The Total Compensation of the Recipient's Executives (5 most highly compensated executives) must be reported by the Recipient (if the Recipient meets the criteria under 2 CFR Part 170) to *http://www.ccr.gov* by the end of the month following the month in which the award was made.

C. The Total Compensation of the Subrecipient's Executives (5 most highly compensated executives) must be reported by the Subrecipient (if the Subrecipient meets the criteria under 2 CFR Part 170) to the Recipient by the end of the month following the month in which the subaward was made.

VII. RUS Contact

The RUS Contact for this grant announcement is Kristi Kubista-Hovis, Senior Policy Advisor, Rural Utilities Service, Electric Programs, United States Department of Agriculture, 1400 Independence Avenue SW., STOP 1560, Room 5165 South Building, Washington, DC 20250–1560. Telephone 202–720–9545, Fax 202–690–0717, email *Kristi.Kubista-Hovis@wdc.usda.gov.*

Dated: May 30, 2012.

Jonathan Adelstein,

Administrator, Rural Utilities Service.

[FR Doc. 2012–15906 Filed 6–27–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Economic Development Administration (EDA).

Title: Comprehensive Economic Development Strategies.

OMB Control Number: 0610–0093.

Form Number(s): None.

Type of Request: Regular submission (extension of a currently approved information collection).

Number of Respondents: 521.

Average Hours per Response: 60.

Burden Hours: 31,280.

Needs and Uses: In order to receive investment assistance under EDA's Public Works and Economic Adjustment programs, applicants must undertake a planning process that results in a Comprehensive Economic Development Strategy (CEDS). A CEDS also is a prerequisite for a region's designation by EDA as an Economic Development District (see 13 CFR 303, 305.2, and 307.2 of EDA's regulations). The CEDS planning process and resulting CEDS is designed to guide the economic growth of an area and provides a mechanism for coordinating the efforts of individuals, organizations, local governments, and private industry concerned with economic development. This collection of information is required to insure that recipients of EDA funds understand and are able to comply with EDA's CEDS requirements.

Affected Public: Not-for-profit institutions; Federal government; State, local, or tribal government; Business or other for-profit organizations.

Frequency: Annually.

Respondent's Obligation: Required to obtain or retain benefits.

OMB Desk Officer: Nicholas Frasier, (202) 395–5887.

Copies of the above information collection proposal can be obtained by calling or writing Jennifer Jessup, Departmental Paperwork Clearance Officer, (202) 482–0336, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230, or via the Internet at *JJessup@doc.gov.*

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Nicholas A Fraser, OMB Desk Officer, FAX number (202) 395–7285, or via the Internet at *Nicholas_A._Fraser@omb.eop.gov.*

Dated: June 22, 2012.

Glenna Mickelson,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2012–15794 Filed 6–27–12; 8:45 am]

BILLING CODE 3510–34–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: Minority Business Development Agency.

Title: Online Customer Relationship Management (CRM)/Performance Databases, Online Phoenix Database, and Online Opportunity Database.

OMB Control Number: 0640–0002.

Form Number(s): None.

Type of Request: Regular Submission.

Number of Respondents: 2,633.

Average Hours per Response: 1 to 210 minutes, depending on the function.

Burden Hours: 4,516.

Needs and Uses: As part of its national service delivery system, MBDA awards cooperative agreements each year to fund the provision of business development services to eligible minority business enterprises (MBEs). The recipient of each cooperative agreement is competitively selected to operate one of the following business center programs: (1) An MBDA Business Center or (2) a Native American Business Enterprise Center (NABEC). In accordance with the Government Performance Results Act (GPRA), MBDA requires all center operators to report basic client information, service activities and progress on attainment of program goals via the Online CRM/Performance Databases. The data collected through the Online CRM/Performance Databases is used to regularly monitor and evaluate the progress of MBDA's funded centers, to provide the Department and OMB with a summary of the quantitative information that it requires about government supported programs, and to implement the GPRA. This information is also summarized and included in the MBDA Annual Performance Report, which is made available to the public.

Additionally, NABEC program award recipients are required to list MBEs to conduct business in the United States in the Online Phoenix Database. This listing is used to match those registered MBEs with opportunities entered in the Online Opportunity Database by public and private sector entities. The MBEs may also self-register via the Online Phoenix Database for notification of potential business opportunities.

Affected Public: Business or other for-profit organizations; not-for-profit institutions; individuals or households; Federal, State, Local or Tribal government.

Frequency: On occasion, semi-annually, annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Nicholas Fraser, (202) 395–5887.

Copies of the above information collection proposal can be obtained by calling or writing Jennifer Jessup, Departmental Paperwork Clearance Officer, (202) 482–0336, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Nicholas Fraser, OMB Desk Officer, FAX number (202) 395–7285, or via the Internet at *Nicholas_A._Fraser@omb.eop.gov*.

Dated: June 22, 2012.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2012–15797 Filed 6–27–12; 8:45 am]

BILLING CODE 3510–21–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1835]

Reorganization of Foreign-Trade Zone 230 Under Alternative Site Framework; Piedmont Triad Area, NC

Pursuant to its authority under the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), the Foreign-Trade Zones Board (the Board) adopts the following Order:

Whereas, the Board adopted the alternative site framework (ASF) (74 FR 1170, 01/12/2009; correction 74 FR 3987, 01/22/2009; 75 FR 71069–71070, 11/22/2010) as an option for the establishment or reorganization of general-purpose zones;

Whereas, the Piedmont Triad Partnership, grantee of Foreign-Trade Zone 230, submitted an application to the Board (FTZ Docket 4–2012, filed 01/11/2012) for authority to reorganize under the ASF with a service area of Alamance, Caswell, Davidson, Davie, Forsyth, Guilford, Montgomery, Randolph, Rockingham, Stokes, Surry and Yadkin Counties, North Carolina, within and adjacent to the Winston Salem U.S. Customs and Border Protection port of entry, and FTZ 230's Sites 1–7, 9–11, 16–18 and 20–22 would be categorized as magnet sites, and FTZ 230's Sites 8, 12–15 and 19 would be categorized as usage-driven sites;

Whereas, notice inviting public comment was given in the **Federal Register** (77 FR 2698–2699, 01/19/2012) and the application has been processed pursuant to the FTZ Act and the Board's regulations; and,

Whereas, the Board adopts the findings and recommendations of the examiner's report, and finds that the requirements of the FTZ Act and the Board's regulations are satisfied, and that the proposal is in the public interest;

Now, therefore, the Board hereby orders:

The application to reorganize FTZ 230 under the alternative site framework is approved, subject to the FTZ Act and the Board's regulations, including Section 400.13, to the Board's standard 2,000-acre activation limit for the overall general-purpose zone project, and to a five-year ASF sunset provision for magnet sites that would terminate authority for Sites 1, 3–7, 9–11, 16–18 and 20–22 if not activated by June 30, 2017, and to a three-year sunset provision for usage-driven sites that would terminate authority for Sites 8, 12–14 and 19 if no foreign-status

merchandise is admitted for a *bona fide* customs purpose by June 30, 2015.

Signed at Washington, DC, this June 18, 2012.

Paul Piquado,

Assistant Secretary of Commerce for Import Administration, Alternate Chairman, Foreign-Trade Zones Board.

Attest:

Elizabeth Whiteman,

Acting Executive Secretary.

[FR Doc. 2012–15900 Filed 6–27–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF COMMERCE

International Trade Administration

Proposed Information Collection; Comment Request; Domestic Client Life-Cycle Multi-Purpose Forms

AGENCY: International Trade Administration.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act (PRA) of 1995.

DATES: Written comments must be submitted on or before August 27, 2012.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Suzan Winters—Phone: (202) 482–6042, *Suzan.Winters@trade.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

The International Trade Administration's U.S. Commercial Service (CS) is seeking approval to revise this information collection by combining with other OMB control numbers: 0625–0065, 0625–0130, 0625–0151, 0625–0215, 0625–0220, 0625–0228, 0625–0237, and 0625–0238. These collections include all client intake, events/activities and export success forms. This comprehensive information collection will cover all aspects of a U.S. organization's life-cycle with CS.

CS is mandated by Congress to help U.S. organizations, particularly small and medium-sized organizations, export their products and services to global markets. As part of its mission, the CS provides market entry/expansion services and trade events to U.S. organizations. The Domestic Client Life-cycle Multi-Purpose Forms, previously titled Export Information Services Order Forms, are needed to collect information to enable, but not limited to small and medium sized, U.S. organizations to efficiently and effectively enhance their ability to determine which international organizations are most suited for their exporting expansion efforts.

The key to effectively and efficiently assist U.S. organizations export is identifying and verifying potential international buyers of U.S. goods and services—

1. Create an all inclusive and flexible client life-cycle information collection. The proposed categories of questions are: contact information, organization information, organization type, agreements and confirmations, objectives, products and services, exporting experience, marketing, events and activities, trade fair/show, certified trade missions, trade missions, advocacy, environment, and education. CS asks only those questions that provide the required information to assist CS in fulfilling a client's objective for a requested service and/or event/activity.

2. Provide CS with the flexibility to create multi-purpose forms from the above approved categories and their questions. Client benefits include customizing questions, forms, and services to address their specific needs and objectives. Without this flexibility, CS is impeded from collecting pertinent client information in an effective and efficient manner.

Therefore, with this flexibility, and the ability to immediately ascertain key information, U.S. organizations are productively positioned to achieve their exporting and expansion goals.

3. Reduce client burden through forms' flexibility and technology. CS seeks increased forms flexibility to ensure that CS asks and captures only the specific information needed for a particular service/event, thereby continuing to reduce client burdens as CS utilizes pre-populated information for clients who have previously registered with CS. As CS moves forward, we understand the importance and need for strategic planning and integration of future technology and initiatives that relate to CS programs and metrics with the types of information collected from clients to conduct those programs.

Additionally, the most important, positive impact is the ability to quickly change and ask pertinent questions to assist clients with their exporting needs regarding matchmaking services, organization promotions, trade missions, market research and other trade promotional activities.

II. Method of Collection

The information will be collected through Export.gov or sent via email and then completed by client electronically.

III. Data

OMB Control Number: 0625–0143.

Form Number(s): NA.

Type of Review: Regular submission (revision of a currently approved collection).

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 70,000.

Estimated Time per Response: 5–25 minutes.

Estimated Total Annual Burden Hours: 29,167.

Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: June 22, 2012.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2012–15809 Filed 6–27–12; 8:45 am]

BILLING CODE 3510–FP–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–831]

Fresh Garlic From the People's Republic of China: Notice of Court Decision Not in Harmony With Final Results of New Shipper Review and Notice of Amended Final Results of New Shipper Review

AGENCY: Import Administration, International Trade Administration, Department of Commerce.

SUMMARY: On June 11, 2012,[1] the United States Court of International Trade (CIT) sustained the Department of Commerce's (the Department) results of redetermination [2] pursuant to the CIT's *Hejia Remand Order 2*.[3]

Consistent with the decision of the United States Court of Appeals for the Federal Circuit (CAFC) in *Timken,*[4] as clarified by *Diamond Sawblades,*[5] the Department is notifying the public that the final judgment in this case is not in harmony with the Department's *Final Results* [6] and is amending the final results of the new shipper review of the antidumping duty order on fresh garlic from the People's Republic of China (PRC) covering the period of review of November 1, 2007, through June 9, 2008, with respect to the margin assigned to Jinxiang Hejia Co., Ltd. (Hejia).

DATES: *Effective Date:* June 21, 2012.

FOR FURTHER INFORMATION CONTACT: Lingjun Wang, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW., Washington, DC 20230; telephone: (202) 482–2316.

SUPPLEMENTARY INFORMATION:

Background

Subsequent to completion of its new shipper review under the antidumping duty order on fresh garlic from the PRC, Hejia challenged certain aspects of the Department's *Final Results* at the CIT. On January 14, 2011 the Department filed its *First Remand Results.*[7] On September 7, 2011, the CIT affirmed, in part, the *First Remand Results* and remanded the weighted-average methodology used by the Department to determine the surrogate value (SV) for the single-clove raw garlic input.[8] On December 9, 2011, the Department issued its *Second Remand Results* under protest, wherein we removed a sales offer of Nepalese origin and thereafter used a simple average methodology to determine the SV for the single-clove raw garlic input. As a result, we calculated a revised weighted-average dumping margin of 0.00 percent for Hejia.

Timken Notice

In its decision in *Timken,* as clarified by *Diamond Sawblades,* the CAFC has held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended (the Act), the Department must publish a notice of a court decision that is not ''in harmony'' with a Department determination and must suspend liquidation of entries pending a ''conclusive'' court decision.[9] The CIT's June 11, 2012, judgment sustaining the *Second Remand Results* constitutes a final decision of that court that is not in harmony with the *Final Results.* This notice is published in fulfillment of the publication requirements of *Timken.* Accordingly, the Department will continue the suspension of liquidation of the subject merchandise pending the expiration of the period of appeal or, if appealed, pending a final and conclusive court decision.

Amended Final Results

Because there is now a final court decision with respect to Hejia, we are amending the *Final Results* with respect to the margin for Hejia. The revised dumping margin is as follows:

Exporter	Weighted-average margin (percent)
Jinxiang Hejia Co., Ltd	0.00

In the *Final Results,* Hejia was assigned a rate of 15.37 percent. Pursuant to court order, Hejia's revised margin for the period November 1, 2007, through June 9, 2008, is 0.00 percent. Accordingly, if the CIT's ruling is not appealed or, if appealed, upheld by the CAFC, the Department will instruct U.S. Customs and Border Protection to assess antidumping duties on entries of the subject merchandise exported by Hejia during the POR at 0.00 percent. Additionally, because Hejia has not been subject to an administrative proceeding since its November 1, 2007, through June 9, 2008 new shipper review, Hejia's cash deposit rate will be 0.00 percent, effective as of June 21, 2012 (*i.e.,* 10 days after the issuance of the CIT's ruling).

This notice is issued and published in accordance with sections 516A(e)(1), 751(a)(1), and 777(i)(1) of the Act.

Dated: June 21, 2012.

Christian Marsh,

Deputy Assistant Secretary for Antidumping and Countervailing Duty Operations.

[FR Doc. 2012–15902 Filed 6–27–12; 8:45 am]

BILLING CODE 3510–DS–P

[1] *See Jinxiang Hejia Co., Ltd.* v. *United States,* Slip-Op.12–80 (CIT 2012).

[2] *See* Department of Commerce Final Results of Redetermination Pursuant to Remand, CIT Court No. 09–00471 (December 9, 2011) (*Second Remand Results*).

[3] *See Jinxiang Hejia Co.* v. *United States,* Slip Op. 11–112 (CIT 2011) (*Hejia Remand Order 2*).

[4] *See Timken Co.* v. *United States,* 893 F.2d 337 (Fed. Cir. 1990) (*Timken*).

[5] *See Diamond Sawblades Mfrs. Coalition* v. *United States,* 626 F.3d 1374 (Fed. Cir. 2010) (*Diamond Sawblades*).

[6] *See Fresh Garlic from the People's Republic of China: Final Results and Final Rescission, In Part, of New Shipper Reviews,* 74 FR 50952 (October 2, 2009) (*Final Results*) and accompanying Issues and Decision Memorandum.

[7] *See* Department of Commerce Final Results of Redetermination Pursuant to Court Order, CIT Court No. 09–00471 (January 14, 2011) (*First Remand Results*).

[8] *See Hejia Remand Order 2.*

[9] *See Timken,* 893 F.2d at 341.

DEPARTMENT OF COMMERCE

International Trade Administration

Meeting of the United States Travel and Tourism Advisory Board

AGENCY: International Trade Administration, U.S. Department of Commerce.

ACTION: Notice of an open meeting.

SUMMARY: This notice sets forth the schedule and agenda for an open meeting of the United States Travel and Tourism Advisory Board (Board). The agenda may change to accommodate Board business. The final agenda and address of the meeting will be posted at least one week in advance of the meeting on the Department of Commerce Web site for the Board at *http://tinet.ita.doc.gov/TTAB/TTAB_Home.html.*

DATES: July 13, 2012; 8:30 a.m.–10:30 a.m. Eastern Daylight Time (EDT).

ADDRESSES: The meeting will be held in the Detroit, Michigan metropolitan area. The exact address of the meeting will be posted on the Department of Commerce Web site for the Board (*http://tinet.ita.doc.gov/TTAB/TTAB_Home.html*) at least one week in advance of the meeting. If you wish to receive an email with the location of the meeting, please send an email with the subject ''7/13 TTAB Meeting RSVP'' to *oacie@trade.gov.*

FOR FURTHER INFORMATION CONTACT: Jennifer Pilat, the United States Travel and Tourism Advisory Board, Room 4043, 1401 Constitution Avenue NW., Washington, DC 20230, telephone: 202–

482–4501, email: *jennifer.pilat@trade.gov.*

SUPPLEMENTARY INFORMATION:

Background: The Board was re-chartered in August 2011, to advise the Secretary of Commerce on matters relating to the U.S. travel and tourism industries.

Topics to be considered: During the meeting, the Board will discuss the subcommittee draft actions plans that outline the work each subcommittee intends to examine during this term. The Board has four subcommittees: Travel Facilitation; Infrastructure and Sustainability; Business Climate; and Advocacy. The Board will additionally focus on research and data issues within the travel and tourism industry. Other U.S. government representatives from the Departments of State, Interior and Transportation may also provide updates on their respective agencies' work relating to the U.S. travel and tourism industries and the Board will be provided an update on the work of the Task Force on Travel and Competitiveness (created by Executive Order 13597, *Establishing Visa and Foreign Visitor Processing Goals and the Task Force on Travel and Competitiveness).*

Public Participation: The meeting will be open to the public and will be physically accessible to people with disabilities. Although the venue is still being finalized, seating will be limited and available on a first come, first served basis. Because of building security and logistics, all attendees must pre-register no later than 5 p.m. Eastern Daylight Time (EDT) on Friday, July 6, 2012 with Jennifer Pilat, the United States Travel and Tourism Advisory Board, Room 4043, 1401 Constitution Avenue NW., Washington, DC 20230, telephone 202–482–4501, *oacie@trade.gov.* Please specify any requests for sign language interpretation, other auxiliary aids, or other reasonable accommodation no later than 5 p.m. EDT on July 6, 2012, to Jennifer Pilat at the contact information above. Last minute requests will be accepted, but may be impossible to fill.

No time will be available for oral comments from members of the public attending the meeting. Any member of the public may submit pertinent written comments concerning the Board's affairs at any time before or after the meeting. Comments may be submitted to Jennifer Pilat at the contact information indicated above. To be considered during the meeting, comments must be received no later than 5 p.m. EDT on July 6, 2012, to ensure transmission to the Board prior to the meeting. Comments received after that date will be distributed to the members but may not be considered at the meeting. Copies of Board meeting minutes will be available within 90 days of the meeting.

Dated: June 25, 2012.

Jennifer Pilat,

Executive Secretary, United States Travel and Tourism Advisory Board.

[FR Doc. 2012–15867 Filed 6–27–12; 8:45 am]

BILLING CODE 3510–DR–P

DEPARTMENT OF COMMERCE

International Trade Administration

Oil and Gas Trade Mission to Israel—Clarification and Amendment

AGENCY: International Trade Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: The United States Department of Commerce, International Trade Administration, U.S. and Foreign Commercial Service (CS) is publishing this amendment to the Notice of the Oil and Gas Trade Mission to Israel, 77 FR 21748, April 11, 2012, to amend the Notice to revise the Commercial Setting to include new information regarding the shale oil industry in Israel. The revised notice will include information on a shale oil project initiated by Israel Energy Initiatives (IEI), a subsidiary of publicly-traded U.S. company, Genie Energy Ltd.

SUPPLEMENTARY INFORMATION:

Amendments to Revise the Commercial Setting to include information on the shale oil project undertaken by Israel Energy Initiatives:

Background

The new information regarding the shale oil project undertaken by Israel Energy Initiatives, represents a significant export opportunity for U.S. manufacturers. The pilot test project due to begin in 2013 will require significant procurement, on the behalf of Israel Energy Initiatives. In order to ensure the mission statement is accurate and helpful to U.S. manufacturers, the Trade Mission Statement will be amended to include this information.

Amendments

1. For the reasons stated above, the Oil section of the Notice of the Oil and Gas Trade Mission to Israel, 77 FR 21748, April 11, 2012, is amended to read as follows:

Oil and Shale Oil

In March 2010, the U.S. Geological Survey reported that there is an estimated 1.7 billion barrels of recoverable oil in Israel.[6] Also, the World Energy Council estimates Israel's shale deposits could ultimately yield as many as 250 billion barrels of oil.[7] In March 2012, another offshore discovery was made by Modiin and Adira Energy northwest of Tel Aviv, with an estimated 128 million barrels of oil, as well as natural gas.[8] The Meged Field may also contain significant oil reserves. In June 2011, Israeli oil exploration company, Givot Olam, announced that its test production site, Meged 5, was producing 800 barrels a day. According to a report by the international consultancy Baker Hughes, Givot Olam will develop Meged 6 and Meged 7 and perform well stimulation for all its drillings; in the next stage the company will drill up to 40 wells throughout the Meged field.[9] In February 2012, MEWR approved continued production at Meged 5, and development of Meged 6–14 drillings.[10]

[6] ''Delek Energy Provides Update on the Drilling at Leviathan 1 Well.'' Delek Group, 30 Aug. 2010. *http://irdelekgroup.com/phoenix.zhtml?c=160695&p=irol-newsArticle&ID=1464492&highlight=.*

[7] ''Oil Shale Country Notes: Israel.'' World Energy Council for Sustainable Energy. *http://www.worldenergy.org/publications/survey_of_energy_resources_2007/oil_shale/country_notes/2005.asp.*

[8] ''Oil and Gas Found at Gabriella, Yitzhak Licenses.'' Globes Israel Business News. 13 Mar. 2012. *http://www.globes.co.il/serveen/globes/docview.asp?did=1000732741.*

[9] Meged Field Reserves Classification. Rep. Baker Hughes, Mar. 2011. *http://www.givot.co.il/english/data/images/Media/GIVT0001%20Final%20Report%2Orev3.pdf.*

[10] ''Energy Ministry Approves Meged Field Development.'' Globes Israel Business News, 30 Jan. 2012. *http://www.globes.co.il/serveen/globes/docview.asp?did=1000720122.*

In July 2008, Israel's MEWR granted Israel Energy Initiatives (IEI), a subsidiary of the publicly-traded U.S. company Genie Energy Ltd, an exclusive license to explore for and produce shale oil in the Shfela basin region of Israel. IEI estimates that there are 40 billion barrels of oil equivalent in place within its 238 km2 license area. The company plans to conduct a pilot test of its in-ground heating process in 2013–2014. Also, in May 2011, the Russian energy company Inter RAO announced that it had received a license to develop oil shale resources in the Negev desert. There may be opportunities for U.S. companies to

provide goods and services related to shale oil development into the nascent industry.

Many oil exploration licenses are set to expire in 2012 and 2013. Exploration companies are limited to how many licenses they can hold in Israel, and given the success of several exploration projects, there are opportunities for U.S. companies to enter Israel's oil exploration market.

FOR FURTHER INFORMATION CONTACT: David McCormack, International Trade Specialist, Phone: 202.482.2833, Email: *david.mccormack@trade.gov.*

Elnora Moye,

Trade Missions Assistant.

[FR Doc. 2012–15785 Filed 6–27–12; 8:45 am]

BILLING CODE 3510–FP–M

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Designation of Fishery Management Council Members and Application for Reinstatement of State Authority

AGENCY: National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before August 27, 2012.

ADDRESSES: Direct all written comments to Jennifer Jessup, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6616, 14th and Constitution Avenue NW., Washington, DC 20230 (or via the Internet at *JJessup@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to William Chappell, (301) 427–8505 or *William.Chappell@noaa.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

This request is for an extension of a currently approved information collection.

The Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act), as amended in 1996, provides for the nomination for members of Fishery Management Councils by state governors and Indian treaty tribes, for the designation of a principal state fishery official who will perform duties under the Magnuson-Stevens Act, and for a request by a state for reinstatement of state authority over a managed fishery. Nominees for council membership must provide the governor or tribe with background documentation, which is then submitted to NOAA with the nomination. The information submitted with these actions will be used to ensure that the requirements of the Magnuson-Stevens Act are being met.

II. Method of Collection

State governors and Indian treaty tribes submit written nominations to the Secretary of Commerce, together with recommendations and statements of candidates' qualifications. Designations of state officials and requests for reinstatement of state authority are also made in writing in response to regulations. No forms are used.

III. Data

OMB Control Number: 0648–0314.

Form Number: None.

Type of Review: Regular submission (extension of a currently approved collection).

Affected Public: State, Local or Tribal government.

Estimated Number of Respondents: 275.

Estimated Time per Response: 1 hour to designate a principal state fishery official(s), 80 hours for a nomination for a Council appointment, 16 hours for background documentation for nominees, and 1 hour for a request to reinstate state authority.

Estimated Total Annual Burden Hours: 4,607.

Estimated Total Annual Cost to Public: $795.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: June 22, 2012.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. 2012–15810 Filed 6–27–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC070

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Reef Fish Fishery of the Gulf of Mexico; Exempted Fishing Permit

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of receipt of an application for an exempted fishing permit; request for comments.

SUMMARY: NMFS announces the receipt of an application for an exempted fishing permit (EFP) from Dr. Chris Koenig (Florida State University) and Dr. Chris Stallings (University of South Florida). If granted, the EFP would authorize the applicants to use trained for-hire fishermen to be able to temporarily possess goliath grouper for non-lethal sampling during the course of their normal fishing activities. This non-lethal sampling would include measuring, tagging, and removing a portion of the goliath grouper dorsal fin rays before releasing the live fish. The intent of this study is to provide regional age structure of recovering goliath grouper populations for fish stock assessments.

DATES: Comments must be received no later than 5 p.m., eastern time, on July 13, 2012.

ADDRESSES: You may submit comments on the application by any of the following methods:

- *Email: Peter.Hood@noaa.gov.* Include in the subject line of the email comment the following document identifier: ''FSU_EFP''.
- *Mail:* Peter Hood, Southeast Regional Office, NMFS, 263 13th Avenue South, St. Petersburg, FL 33701.

The application and related documents are available for review upon written request to any of the above addresses.

FOR FURTHER INFORMATION CONTACT: Peter Hood, 727–824–5305; email: *Peter.Hood@noaa.gov.*

SUPPLEMENTARY INFORMATION: The EFP is requested under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1801 *et seq.*), and regulations at 50 CFR 600.745(b) concerning exempted fishing.

The described research is part of a life history study of goliath grouper and includes a regional age structure study. This research is funded by NOAA through the Marine Fisheries Initiative (cooperative agreement number NA11NMF4330123). The research is intended to involve federally permitted for-hire fishermen in the collection of biological information on goliath grouper. The proposed collection for scientific research involves activities that could otherwise be prohibited by regulations at 50 CFR part 622, as they pertain to reef fish managed by the Gulf of Mexico Fishery Management Council and to snapper-grouper managed by the South Atlantic Fishery Management Councils (Councils). Specific, otherwise prohibited, Federal regulations that the EFP would authorize include regulations at § 622.32(b)(2)(ii) and (b)(3)(ii) (Prohibited and limited harvest species) and § 622.39(b)(ii) and (d)(ii)(D) (Bag and possession limits).

The applicant requests authorization through the EFP to allow for-hire fishermen to temporarily possess goliath grouper for non-lethal sampling during the course of their normal fishing activities in the Federal waters off Florida. The sampling would occur both state and Federal waters off Florida in both the Gulf of Mexico (Gulf) and the South Atlantic. For sampling in Florida state waters, the applicants have received a permit to non-lethally sample goliath grouper from the Florida Fish and Wildlife Conservation Commission. To participate in this study, for-hire fishermen would be trained by the applicants on how to sample goliath grouper with minimal harm to the fish. Sampling includes measuring, tagging, and removing a portion of the dorsal fin rays before releasing the live fish. The EFP would apply to specifically designated fishers in Gulf Federal waters who would be required to possess a valid Federal Gulf reef fish charter vessel/headboat permit and to designated fishers in South Atlantic Federal waters who would be required to possess a valid South Atlantic snapper-grouper charter vessel/headboat permit.

The goal of the research is to provide better life history information for the next stock assessment. Because the possession of goliath grouper is prohibited in Federal waters, obtaining biological samples through dockside sampling cannot be done. The EFP, if approved, would authorize the sampling of no more than 1,000 goliath grouper from both state and Federal waters from the date of issuance of the EFP through August 28, 2014. These fish would be released alive immediately after sampling. The condition (alive or dead) of the released fish would be assessed after release from the vessel by the crew. The EFP would no longer be valid if there is a mortality of 10 or more fish as a result of the activities taken through this EFP.

NMFS finds this application warrants further consideration. Possible conditions the agency may impose on this permit, if it is indeed granted, include but are not limited to, a prohibition of conducting research within marine protected areas, marine sanctuaries, or special management zones, without additional authorization. A report on the research would be due at the end of the collection period, to be submitted to NMFS and reviewed by the councils.

A final decision on issuance of the EFP will depend on NMFS' review of public comments received on the application, consultations with appropriate fishery management agencies of the affected states, the Councils, and the U.S. Coast Guard, as well as a determination that it is consistent with all applicable laws.

Authority: 16 U.S.C. 1801 *et seq.*

Dated: June 25, 2012.

Carrie Selberg,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2012–15892 Filed 6–27–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Fisheries of the South Atlantic and Gulf of Mexico; South Atlantic Fishery Management Council; Public Meetings

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice of a public meeting and workshop.

SUMMARY: The South Atlantic Fishery Management Council (SAFMC) will hold a meeting of its Scientific and Statistical Committee (SSC) to review and discuss Amendment 9 to the Shrimp Fishery Management Plan (FMP), and a workshop of the SSC to consider modifications to the Acceptable Biological Catch (ABC) control rule. The meeting and workshop will be held in North Charleston, SC. See **SUPPLEMENTARY INFORMATION.**

DATES: The meeting and workshop will be held August 1–3, 2012. See **SUPPLEMENTARY INFORMATION**.

ADDRESSES: The meeting and workshop will be held at the Crowne Plaza, 4831 Tanger Outlet Boulevard, North Charleston, SC 29418; telephone: (843) 744–4422.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, Public Information Officer, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; telephone: (843) 571–4366; email: *Kim.Iverson@safmc.net.*

SUPPLEMENTARY INFORMATION: Under the Magnuson-Stevens Reauthorized Act, the SSC is the body responsible for reviewing the Council's scientific materials. During the SSC meeting, the SSC will discuss Amendment 9 to the Shrimp FMP for the South Atlantic Region. The amendment will modify the process for a state to request a concurrent closure of the penaeid shrimp fisheries in the adjacent federal waters during severe winter weather, and revise the overfished status determination criteria for the pink shrimp stock.

During the SSC workshop, the committee will discuss the ABC control rule, with emphasis on methods for deriving ABC for stocks that have reliable catch data only. The SSC will review catch and biological data for unassessed stocks and recommend modifications to the ABC control rule to improve the use of such information when providing ABC recommendations. The SSC will not make ABC recommendations during the workshop.

SSC Meeting Schedule:

August 1, 2012, 1 p.m.–2:45 p.m.

SSC Workshop Schedule:

August 1, 2012, 3 p.m.–6 p.m.

August 2, 2012, 9 a.m.–6 p.m.

August 3, 2012, 9 a.m.–12 p.m.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during these meetings. Action will be restricted to those issues specifically listed in this notice and any issues arising after publication of this

notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) at least 3 business days prior to the meeting.

Dated: June 25, 2012.

Tracey L. Thompson,

Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 2012–15813 Filed 6–27–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC010

Marine Mammals; File No. 14325

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; issuance of permit amendment.

SUMMARY: Notice is hereby given that a major amendment to Permit No. 14325–01 has been issued to the Alaska Department of Fish and Game (ADF&G), Division of Wildlife Conservation, Juneau, AK, (Principal Investigator: Michael Rehberg).

ADDRESSES: The permit amendment and related documents are available for review upon written request or by appointment in the following offices:

Permits and Conservation Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 427–8401; fax (301) 713–0376; and Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802–1668; phone (907) 586–7221; fax (907) 586–7249.

FOR FURTHER INFORMATION CONTACT: Tammy Adams or Amy Sloan, (301)427–8401.

SUPPLEMENTARY INFORMATION: On May 2, 2012, notice was published in the **Federal Register** (77 FR 25963) that a request for an amendment to Permit No. 14325–01 to conduct research on Steller sea lions (*Eumetopias jubatus*) in Alaska had been submitted by the above-named applicant. The requested permit amendment has been issued under the authority of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR parts 222–226), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

The permit has been amended to incorporate changes to the terms and conditions related to numbers of animals taken and to the location and manner of taking to include: Manual restraint of pups in the eastern Distinct Population Segment (eDPS) and western DPS (wDPS); capture of adult Steller sea lions using remotely delivered immobilization agents; adding jugular blood draw/catheter location for sampling and Evans Blue injection; adding the intraperitoneal cavity to allowable deuterium injection sites; modifying time of year and number of takes for the Alsek/Akwe aerial surveys; and adding aerial surveys at Cape Newenham haulout and in the northern Bering Sea. The amendment is valid through the original permit expiration date, August 31, 2014.

In compliance with the National Environmental Policy Act of 1969 (42 U.S.C. 4321 *et seq.*), NMFS has determined that the activities proposed are consistent with the Preferred Alternative in the Final Programmatic Environmental Impact Statement for Steller Sea Lion and Northern Fur Seal Research (NMFS 2007), and that issuance of the permit would not have a significant adverse impact on the human environment.

As required by the ESA, issuance of this permit was based on a finding that such permit: (1) Was applied for in good faith; (2) will not operate to the disadvantage of such endangered species; and (3) is consistent with the purposes and policies set forth in section 2 of the ESA.

Dated: June 21, 2012.

P. Michael Payne,

Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2012–15766 Filed 6–27–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC068

Takes of Marine Mammals Incidental to Specified Activities; Harbor Activities Related to the Delta IV/Evolved Expendable Launch Vehicle at Vandenberg Air Force Base, CA

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; proposed incidental take authorization; request for comments.

SUMMARY: We have received an application from United Launch Alliance, for an Incidental Harassment Authorization to take marine mammals, by harassment, incidental to conducting *Delta Mariner* operations, cargo unloading activities, and harbor maintenance activities at south Vandenberg Air Force Base, CA. United Launch Alliance is requesting an Authorization per the Marine Mammal Protection Act. We are requesting comments on our proposal to issue an Incidental Harassment Authorization to United Launch Alliance to incidentally harass, by Level B harassment only, three species of marine mammals during their specified activities from September 2012, through August 2013.

DATES: We must receive comments and information no later than July 30, 2012.

ADDRESSES: Comments on the application should be addressed to P. Michael Payne, Chief, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225. The mailbox address for providing email comments is *ITP.Cody@noaa.gov.* We are not responsible for email comments sent to addresses other than the one provided here. Comments sent via email, including all attachments, must not exceed a 10-megabyte file size.

Instructions: All submitted comments are a part of the public record. We will post comments on our Web site at *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit confidential business information or otherwise sensitive or protected information.

To obtain an electronic copy of the application containing a list of the

references used in this document, write to the previously mentioned address, telephone the contact listed here (see **FOR FURTHER INFORMATION CONTACT**) or access our Web page at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications.*

FOR FURTHER INFORMATION CONTACT: Jeannine Cody, NMFS, Office of Protected Resources, NMFS (301) 427–8401.

SUPPLEMENTARY INFORMATION:

Background

Section 101(a)(5)(D) of the MMPA (MMPA; 16 U.S.C. 1361 *et seq.*) directs the Secretary of Commerce to authorize, upon request, the incidental, but not intentional, taking of small numbers of marine mammals of a species or population stock, by United States citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if: (1) We make certain findings; (2) the taking is limited to harassment; and (3) we provide a notice of a proposed authorization to the public for review.

We shall grant authorization for the incidental taking of small numbers of marine mammals if we find that the taking will have a negligible impact on the species or stock(s), and will not have an unmitigable adverse impact on the availability of the species or stock(s) for subsistence uses (where relevant). The authorization must set forth the permissible methods of taking; other means of effecting the least practicable adverse impact on the species or stock and its habitat; and requirements pertaining to the mitigation, monitoring and reporting of such takings.

We have defined ''negligible impact'' in 50 CFR 216.103 as ''an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.''

Section 101(a)(5)(D) of the Marine Mammal Protection Act established an expedited process by which citizens of the United States can apply for an authorization to incidentally take small numbers of marine mammals by harassment. Section 101(a)(5)(D) of the Act establishes a 45-day time limit for our review of an application followed by a 30-day public notice and comment period on any proposed authorizations for the incidental harassment of small numbers of marine mammals. Within 45 days of the close of the public comment period, we must either issue or deny the authorization and must publish a notice in the **Federal Register** within 30 days of our determination to issue or deny the authorization.

Except with respect to certain activities not applicable here, the Marine Mammal Protection Act defines ''harassment'' as: any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

Summary of Request

We received an application on May 7, 2012, from United Launch Alliance requesting the taking, by Level B harassment only, of small numbers of marine mammals, incidental to conducting *Delta Mariner* harbor operations for one year. We determined the application complete and adequate on June 5, 2012.

These activities (i.e., transport vessel operations, cargo movement activities, and harbor maintenance dredging) will support Delta IV/EELV launch activities from the Space Launch Complex at Vandenberg Air Force Base (Base) and would occur in the vicinity of a known pinniped haul out site (Small Haul-out Site #1 in the Application) located in a harbor on the southwest section of the Base.

Acoustic and visual stimuli generated by the use of heavy equipment during the *Delta Mariner* off-loading operations and the, cargo movement activities, the increased presence of personnel, and harbor maintenance dredging have the potential to cause California sea lions (*Zalophus californianus*), Pacific harbor seals (*Phoca vitulina*), and Northern elephant seals (*Mirounga angustirostris*) hauled out on Small Haul-out Site #1 to flush into Base's harbor or cause a short-term behavioral disturbance for marine mammals in the proposed area. These types of disturbances are the principal means of marine mammal taking associated with these activities. This is United Launch Alliance's tenth request for an Authorization and they have requested take of Pacific harbor seals; California sea lions; and Northern elephant seals by Level B harassment only. To date, we have issued nine, one-year, Incidental Harassment Authorizations to them for the conduct of the same activities from 2002 to 2011, with the last Authorization expiring on June 6, 2012 (76 FR 33721, June 9, 2011). United Launch Alliance did not conduct any operations between 2003 and 2008, and accordingly, was not required to conduct any monitoring activities related to harbor maintenance or *Delta Mariner* operations. After a six-year hiatus, they commenced harbor maintenance activities in July 2009. We present the monitoring results from the 2009 through 2011 operating seasons in the Summary of Previous Monitoring section of this notice.

Description of the Specified Geographic Region

The proposed activities will take place in or near the Base's harbor located on the central coast of California at 34°33′ N, 120°36′ W in the northeast Pacific Ocean. The harbor is approximately 2.5 miles (mi) (4.02 kilometers (km)) south of Point Arguello, CA and approximately 1 mi (1.61 km) south of the nearest marine mammal rookery.

Description of the Specified Activity

United Launch Alliance proposes to conduct Delta IV/EELV activities (transport vessel operations, harbor maintenance dredging, and cargo movement activities) between September 1, 2012 and August 31, 2013.

The Delta IV/EELV launch vehicle is comprised of a common booster core, an upper stage, and a payload fairing. The size of the common booster core requires it to be transported to the Base's launch site by a specially designed vessel, the *Delta Mariner.* To allow safe operation of the *Delta Mariner,* maintenance dredging within a harbor located in Zone 6 of the Western Space and Missile Center in the Pacific Ocean (33 CFR 334.1130(a)(2)(vi)), United Launch Alliance requires that the harbor undergo maintenance on a periodic basis.

Delta Mariner Operations

The Delta Mariner is a 312-foot (ft) (95.1-meter (m)) long, 84-ft (25.6-m) wide, steel-hulled, ocean-going vessel capable of operating at an 8-ft (2.4-m) draft. It is a roll-on, roll-off, self-propelled ship with an enclosed watertight cargo area, a superstructure forward, and a ramp at the vessel's stern.

Delta Mariner off-loading operations and associated cargo movements within the harbor would occur at a maximum frequency of four times per year and United Launch Alliance has scheduled the first delivery for November 2012.

The 8,000-horsepower vessel would enter the harbor stern first at 1.5 to 2 knots (kts) (1.72 mi per hour (mph)) during daylight hours at high tide, approaching the wharf at less than 0.75 kts (0.86 mph). At least one tugboat will always accompany the *Delta Mariner*

during visits to the Base's harbor. The vessel's departure will occur during daylight hours at high tide approximately 10 hours after the vessel's arrival.

Cargo Movement Activities

Removal of the common booster core from the vessel requires the use of an elevating platform transporter (transporter). The transporter is powered by a diesel engine manufactured by Daimler-Chrysler AG (Mercedes), model OM442A, 340HP. United Launch Alliance would limit cargo unloading activities to periods of high tide. It takes approximately two hours to remove the first common booster core from the cargo bay and six hours to remove a complement of three common booster cores. It would take up to two additional hours to remove remaining cargo which may consist of two upper stages, one set of fairings, and one payload attach fitting. The total of 10 hours includes time required to move the flight hardware to the staging area. United Launch Alliance packs flight hardware items, other than the common booster cores, in containers equipped with retractable casters and tow bars. United Launch Alliance would tow these containers off the vessel by a standard diesel truck tractor. Noise from the ground support equipment will be muted while inside the cargo bay and will be audible to marine mammals only during the time that the equipment is in the harbor area. Cargo movement operations would occur for approximately 43 days (concurrent with the harbor maintenance activities).

Harbor Maintenance Activities

United Launch Alliance must perform maintenance dredging annually or twice per year, depending on the hardware delivery schedule to accommodate the *Delta* Mariner's draft. Dredging would involve the use of heavy equipment, including a clamshell dredge, dredging crane, a small tug, dredging barge, dump trucks, and a skip loader.

Acoustic Source Specifications

We discuss the associated noise sources from the *Delta Mariner,* harbor maintenance equipment, and the transporter in the following section.

Metrics Used in This Document

This section includes a brief explanation of the sound measurements frequently used in the discussions of acoustic effects in this document. Sound pressure is the sound force per unit area. A standard practice is to measure the pressure in micropascals (μPa), where 1 pascal (Pa) is the pressure resulting from a force of one newton exerted over an area of one square meter. Sound pressure level is expressed as the ratio of a measured sound pressure and a reference level. The commonly used reference pressure level in underwater acoustics is 1 μPa, and the units for sound pressure levels are dB re: 1 μPa.

Sound Pressure Level (in Decibels (dB)) = 20 log (Pressure/Reference Pressure)

Sound pressure level is an instantaneous measurement and can be expressed as the peak, the peak-peak (p-p), or the root mean square. Root mean square, which is the square root of the arithmetic average of the squared instantaneous pressure values, is typically used in discussions of the effects of sounds on vertebrates and all references to sound pressure level in this document refer to the root mean square unless otherwise noted. Sound pressure level does not take the duration of a sound into account.

Characteristics of Vessel Noise

Sources of noise from the *Delta Mariner* include ventilating propellers used for maneuvering the vessel into position and a brief sound from the cargo bay door when it becomes disengaged. United Launch Alliance has not performed any in situ sound measurements outside the vessel.

Characteristics of Harbor Maintenance and Cargo Equipment Noise

United Launch Alliance estimates that the noise levels emanating from within 50 ft (15.2 m) of the equipment (i.e., backhoe, water truck, and clamshell dredge and the cargo moving equipment (transporter and roll-off truck transporter) would range from 56 to 95 dB re: 20 μPa (A-weighted). The ambient background noise at the dock area ranges from 35 to 48 dB re: 20 μPa (A-weighted) at 250 ft (76.2 m). United Launch Alliance presents the equipment noise levels measured at the dock area in Table 1.2–1 of their application.

We expect that acoustic stimuli, resulting from the proposed activities, have the potential to incidentally harass marine mammals. We also expect these disturbances to be temporary and result in a temporary modification in behavior and/or low-level physiological effects (Level B harassment only) of small numbers of certain species of marine mammals.

We do not expect that the movement of the *Delta Mariner* during the conduct of the proposed activities, has the potential to harass marine mammals because of the relatively slow operation speed of the vessel (1.5 to 2 kts; 1.72 mph) during its approach to the area at high tide and the vessel's slow operational speed (0.75 kts; 0.86 mph) during its approach to the wharf.

Description of Marine Mammals in the Area of the Proposed Specified Activity

The marine mammal species most likely to be harassed incidental to conducting *Delta Mariner* operations, cargo unloading activities, and harbor maintenance activities at the Base are the California sea lion, the Pacific Harbor seal, and the northern elephant seal.

We refer the public to Carretta *et al.,* (2011) for general information on these species which are presented below this section. The publication is available at: *http://www.nmfs.noaa.gov/pr/pdfs/sars/po2011.pdf.*

California Sea Lion

California sea lions are not listed as threatened or endangered under the Endangered Species Act, nor are they categorized as depleted under the Marine Mammal Protection Act. The California sea lion is now a full species, separated from the Galapagos sea lion (*Z. wollebaeki*) and the extinct Japanese sea lion (*Z. japonicus*) (Brunner 2003, Wolf *et al.,* 2007, Schramm *et al.,* 2009). The estimated population of the U.S. stock of California sea lion is approximately 296,750 animals and the current maximum population growth rate is 12 percent (Carretta *et al.,* 2011).

California sea lion breeding areas are on islands located in southern California, in western Baja California, Mexico, and the Gulf of California. During the breeding season, most California sea lions inhabit southern California and Mexico. Rookery sites in southern California are limited to the San Miguel Islands and the southerly Channel Islands of San Nicolas, Santa Barbara, and San Clemente (Carretta *et al.,* 2011). Males establish breeding territories during May through July on both land and in the water. Females come ashore in mid-May and June where they give birth to a single pup approximately four to five days after arrival and will nurse pups for about a week before going on their first feeding trip. Females will alternate feeding trips with nursing bouts until the pup is weaned between four and 10 months of age (NMML, 2010).

Adult and juvenile males will migrate as far north as British Columbia, Canada while females and pups remain in southern California waters in the non-breeding season. In warm water (El Niño) years, some females are found as far north as Washington and Oregon, presumably following prey.

The largest concentrations of California sea lions in the vicinity of the Base occur at Lion Rock, an islet located at (34°53′ N, 120°39′ W) offshore of Point Sal, CA approximately 24 mi (38.6 km) north of where the activities will occur. Historical observations have noted the presence of at least 100 California sea lions hauled out during any season at Lion Rock (Roest, 1995); small groups migrating south along the Base's coastline commencing in April (Tetra Tech, 1997); juveniles hauled-out with harbor seals along the South Base sites from July through September (Tetra Tech, 1997); and finally, large groups of sea lions migrating north along the Base's coastline beginning in August (Tetra Tech, 1997). A recent Air Force report cited fewer than 100 sea lions occuring seasonally on the Base (USAF 2008). Sea lions may sporadically haul out to rest when foraging or transiting through the area, but generally spend little time there (USAF, 2008).

Pacific Harbor Seal

Pacific harbor seals are not listed as threatened or endangered under the Endangered Species Act, nor are they categorized as depleted under the Marine Mammal Protection Act. The estimated population of the California stock of Pacific harbor seals is approximately 30,196 animals (Carretta *et al.,* 2011).

The animals inhabit near-shore coastal and estuarine areas from Baja California, Mexico, to the Pribilof Islands in Alaska. Pacific harbor seals are divided into two subspecies: *P. v. stejnegeri* in the western North Pacific, near Japan, and *P. v. richardsi* in the northeast Pacific Ocean. The latter subspecies, recognized as three separate stocks, inhabits the west coast of the continental United States, including: the outer coastal waters of Oregon and Washington states; Washington state inland waters; and Alaska coastal and inland waters.

In California, over 500 harbor seal haulout sites are widely distributed along the mainland and offshore islands, and include rocky shores, beaches and intertidal sandbars (Lowry *et al.,* 2005). Harbor seals mate at sea and females give birth during the spring and summer, although, the pupping season varies with latitude. Pups are nursed for an average of 24 days and are ready to swim minutes after being born. Harbor seal pupping takes place at many locations and rookery size varies from a few pups to many hundreds of pups. The nearest harbor seal rookery relative to the operational area is at Rocky Point, CA approximately one mile (1.61 km) south of the harbor.

United Launch Alliance estimates that the total population of harbor seals on the Base is approximately 1,115 (maximum of 500 seals hauled out at one time on the southern portion of the Base) based on sighting surveys and telemetry data (SRS, 2003). The harbor seal population on Base experienced an annual 4.1 percent increase from 2003 to 2006 and appears to be reaching its carrying capacity, as the population shows little change or slight increases between 2005 and 2008 (MSRS, 2009).

The daily haul-out behavior of harbor seals along the southern part of the Base's coastline is primarily dependent on time of day. The highest numbers of seals haul-out between 1100 and 1600 hours and the seals will occasionally haul out at a beach 250 ft (76.2 m) west of the harbor and on rocks outside the harbor breakwater where United Launch Alliance proposes to conduct *Delta Mariner* operations.

Northern Elephant Seal

Northern elephant seals are not listed as threatened or endangered under the Endangered Species Act, nor are they categorized as depleted under the Marine Mammal Protection Act. The estimated population of the San Miguel stock is approximately 2,492 animals and the current maximum population growth rate is 12 percent (Carretta *et al.,* 2011).

Northern elephant seals range in the eastern and central North Pacific Ocean, from as far north as Alaska and as far south as Mexico. Northern elephant seals spend much of the year, generally about nine months, in the ocean. They are usually underwater, diving to depths of about 1,000–2,500 ft (330–800 m) for 20- to 30-minute intervals with only short breaks at the surface. They are rarely seen out at sea for this reason. While on land, they prefer sandy beaches.

Northern elephant seals breed and give birth in California (U.S.) and Baja California (Mexico), primarily on offshore islands (Stewart *et al.,* 1994), from December to March (Stewart and Huber, 1993). Males feed near the eastern Aleutian Islands and in the Gulf of Alaska, and females feed further south, south of 45° N (Stewart and Huber, 1993; Le Boeuf *et al.,* 1993). Adults return to land between March and August to molt, with males returning later than females. Adults return to their feeding areas again between their spring/summer molting and their winter breeding seasons.

United Launch Alliance reports that northern elephant seals do not breed within the Base's harbor area nor on its offshore islets. However, some juvenile and sub-adult elephant seals, primarily immature males, regularly use some of the Base's shoreline as haul-outs. The juvenile and sub-adult elephant seals do not haul out in the harbor area.

United Launch Alliance has no verified records of elephant seals on the Base prior to 1998. In April 2003, the Air Force documented the first occurrence of hauled out elephant seals at South Rocky Point during the molting season (USAF, 2003). In 2004, they counted a maximum of 188 elephant seals on the Base; however, the animals observed hauled out since that survey have decreased, with no documented individuals hauled out since 2007 (USAF, 2008).

Other Marine Mammals in the Proposed Action Area

There are several cetaceans that have the potential to transit in the vicinity of the Base's harbor including the short-beaked common dolphin (*Delphinus delphis*), the Pacific white-sided dolphin (*Lagenorhynchus obliquidens*), and the endangered gray whale (*Eschrichtius robustus*). We will not consider these species further in this notice of a proposed Incidental Harassment Authorization because they are typically found farther offshore of the Base's harbor and are unlikely or rare in the proposed action area and the *Delta Mariner's* operations would not likely affect these species.

Other species of pinnipeds species are rare to infrequent along the southern portion of the Base's coast during certain times of the year and are unlikely to experience harassment by United Launch Alliance's activities. These three species are: the northern fur seal (*Callorhinus ursinus*), Guadalupe fur seal (*Arctocephalus townsendi*), and Steller sea lion (*Eumetopias jubatus*). Northern fur seals, Guadalupe fur seals, and Steller sea lions occur along the California coast and Northern Channel Islands but are not likely to be found on the Base. We refer the public to Carretta *et al.,* (2011) for general information on the species' life history and distribution. The stock assessment report is available at: *http://www.nmfs.noaa.gov/pr/pdfs/sars/po2011.pdf.*

California (southern) sea otters (*Enhydra lutris nereis*) are listed as threatened under the Endangered Species Act and categorized as depleted under the Marine Mammal Protection Act. The U.S. Fish and Wildlife Service manages this species and we will not consider this species in greater detail within this notice. The proposed Authorization will only address requested take authorizations for pinnipeds.

Potential Effects on Marine Mammals

Acoustic and visual stimuli generated by: the use of heavy equipment during the *Delta Mariner* off-loading operations and harbor dredging and the increased presence of personnel may have the potential to cause Level B harassment of any pinnipeds hauled out in the Base's harbor. This disturbance from acoustic and visual stimuli is the principal means of marine mammal taking associated with these activities.

Pinnipeds sometimes show startle reactions when exposed to sudden brief sounds. An acoustic stimulus with sudden onset (such as a sonic boom) may be analogous to a ''looming'' visual stimulus (Hayes and Saif, 1967), which may elicit flight away from the source (Berrens *et al.,* 1988). The onset of operations by a loud sound source, such as the transporter during common booster core off-loading procedures, may elicit such a reaction. In addition, the movements of cranes and dredges may represent a ''looming'' visual stimulus to seals hauled out in close proximity. Seals and sea lions exposed to such acoustic and visual stimuli may either exhibit a startle response and/or leave the haul-out site.

According to the Marine Mammal Protection Act and our implementing regulations, if harbor activities disrupt the behavioral patterns of harbor seals or sea lions, these activities would take marine mammals by Level B harassment. In general, if the received level of the noise stimulus exceeds both the background (ambient) noise level and the auditory threshold of the animals, and especially if the stimulus is novel to them, there may be a behavioral response. The probability and degree of response will also depend on the season, the group composition of the pinnipeds, and the type of activity in which they are engaged. Minor and brief responses, such as short-duration startle or alert reactions, are not likely to constitute disruption of behavioral patterns, such as migration, nursing, breeding, feeding, or sheltering (i.e., Level B harassment) and would not cause injury or mortality to marine mammals. On the other hand, startle and alert reactions accompanied by large-scale movements, such as stampedes into the water of hundreds of animals, may rise to the degree of Level A harassment because they could result in injury of individuals. In addition, such large-scale movements by dense aggregations of marine mammals or at pupping sites could potentially lead to takes by injury or death. However, there is no potential for large-scale movements leading to serious injury or mortality near the south Base harbor because, historically, the number of harbor seals hauled out near the site is less than 30 individuals, and there is no pupping at nearby sites. The effects of the harbor activities are expected to be limited to short-term startle responses and localized behavioral changes.

Summary of Previous Monitoring

United Launch Alliance has complied with the mitigation and monitoring that we required under the previous Authorizations for the 2009, 2010, and 2011 seasons. In compliance with each Authorization, they have submitted a final report on the activities at the Base's harbor covering each annual period. Each Incidental Harassment Authorization required them to conduct baseline observations of pinnipeds in the project area prior to initiating project activities; conduct and record observations on pinnipeds in the vicinity of the harbor for the duration of the activity occurring when tides are 2 ft (0.61 m) or less (i.e., low enough for pinnipeds to haul-out); and conduct post-construction observations of pinniped haul-outs in the project area to determine whether animals possibly disturbed by the project's activities would return to the haul-out area.

During the 2009 season (July 8–September 21) United Launch Alliance conducted 21 days of operations which did not exceed the activity levels analyzed under the 2009 Authorization. The observers noted that Pacific harbor seals hauled out in the vicinity were more responsive to visual disturbances than to auditory disturbances. They reported that the maximum number of harbor seals hauled out ranged from zero to 28 animals with most using the rocks approximately 540 to 570 ft (164.9 to 173.7 m) south of the harbor area. The maximum number of sea lions present ranged from zero to two animals with both hauled out at either the breakwater and or on a beach southwest of the dock area. United Launch Alliance did not observe any reactions of the harbor seals during equipment start-up. However, the observers noted that in some instances, the harbor seals slowly flushed when they could see equipment moving from their vantage point in the haulout area.

During the course of the 2009 season, harbor seals showed head alerts on 15 occasions and slowly entered the water on 24 occasions. Only one California sea lion showed a head alert during the entire operational season.

For the 2010 season (June 2–18) United Launch Alliance conducted seven days of operations which did not exceed the activity levels that we analyzed under the 2010 Authorization. They reported that the maximum number of harbor seals hauled out ranged from zero to 14 animals. Similar to the previous year, the harbor seals hauled out on the rocks south of the harbor area. The maximum number of sea lions present ranged from zero to two animals.

During the course of the 2010 season, harbor seals showed a head alert on only one occasion and entered the water on two occasions. In the first instance, the harbor seal resettled within one minute after the head alert. In the second instance, both harbor seals returned to the haulout within three minutes. The observers routinely observed pinnipeds in the water within and around the harbor for the duration of project activities. They report that they did not observe any altered behavior while the animals were in the water due to activities occurring on the dock or in the harbor.

During the 2011 season (July 22–August 18; October 24–November 7) they conducted a total of 19 days of operations which did not exceed the activity levels analyzed under the 2011 Authorization. They reported that the maximum number of harbor seals hauled out ranged from zero to 38 animals and the maximum number of sea lions present ranged from zero to one animal.

During the course of the 2011 season, harbor seals showed a head alert on 23 occasions and slowly entered the water on 19 occasions. Again, the observers routinely observed pinnipeds rafting in the water within and around the harbor for the duration of project activities. For a complete record of all observations, we refer the reader to United Launch Alliance's monitoring reports at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm#applications.*

Based on the results from the previous monitoring reports, we conclude that these results support our original findings that the mitigation measures set forth in the 2009, 2010, and 2011 Authorizations effected the least practicable adverse impact on the species or stocks. During periods of low tide (e.g., when tides are 2 ft (0.61 m) or less and low enough for pinnipeds to haul-out), we would expect the pinnipeds to return to the haulout site within 60 minutes of the disturbance (Allen *et al.,* 1985). The effects to pinnipeds appear at the most to displace the animals temporarily from their haul out sites and we do not expect that the pinnipeds would permanently abandon a haul-out site during the conduct of harbor maintenance and *Delta Mariner* operations.

Finally, no operations would occur near pinniped rookeries; therefore, we do not expect mother and pup separation or crushing of pups to occur.

The potential effects to marine mammals described in this section of the document do not take into consideration the proposed monitoring and mitigation measures described later in this document (see the ''Proposed Mitigation'' and ''Proposed Monitoring and Reporting'' sections) which, as noted, should effect the least practicable adverse impact on affected marine mammal species and stocks.

Anticipated Effects on Habitat

We do not anticipate that the proposed operations would result in any temporary or permanent effects on the habitats used by the marine mammals in the proposed area, including the food sources they use (i.e. fish and invertebrates). While it is anticipated that the specified activity may result in marine mammals avoiding certain areas due to temporary ensonification, this impact to habitat is temporary and reversible and was considered in further detail earlier in this document, as behavioral modification. The main impact associated with the proposed activity will be temporarily elevated noise levels and the associated direct effects on marine mammals, previously discussed in this notice.

Proposed Mitigation

In order to issue an incidental take authorization under section 101(a)(5)(D) of the Marine Mammal Protection Act, we must set forth the permissible methods of taking pursuant to such activity, and other means of effecting the least practicable adverse impact on such species or stock and its habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance, and the availability of such species or stock for taking for certain subsistence uses.

United Launch Alliance has based the proposed mitigation measures described herein, to be implemented for the proposed operations, on the following:

(1) Protocols used during previous operations as approved by us; and

(2) Previous incidental harassment authorizations that we have approved and authorized; and

To reduce the potential for disturbance from visual and acoustic stimuli associated with the activities, United Launch Alliance/and or its designees propose to implement the following mitigating measures for marine mammals:

(1) If activities occur during nighttime hours, United Launch Alliance will turn on lighting equipment before dusk. The lights would remain on for the entire night to avoid startling pinnipeds.

(2) Initiate operations before dusk.

(3) Keep construction noises at a constant level (i.e., not interrupted by periods of quiet in excess of 30 minutes) while pinnipeds are present.

(4) If activities cease for longer than 30 minutes and pinnipeds are in the area, United Launch Alliance would initiate a gradual start-up of activities to ensure a gradual increase in noise levels.

(5) A qualified marine mammal observer would visually monitor the harbor seals on the beach adjacent to the harbor and on rocks for any flushing or other behaviors as a result of United Launch Alliance's activities (see Proposed Monitoring).

(6) The *Delta Mariner* and accompanying vessels would enter the harbor only when the tide is too high for harbor seals to haul-out on the rocks; reducing speed to 1.5 to 2 knots (1.5–2.0 nm/hr; 2.8–3.7 km/hr) once the vessel is within 3 mi (4.83 km) of the harbor. The vessel would enter the harbor stern first, approaching the wharf and moorings at less than 0.75 knot (1.4 km/hr).

(7) As United Launch Alliance explores alternate dredge methods, the dredge contractor may introduce quieter techniques and equipment.

We have carefully evaluated the applicant's proposed mitigation measures and have considered a range of other measures in the context of ensuring that we have prescribed the means of effecting the least practicable adverse impact on the affected marine mammal species and stocks and their habitat. Our evaluation of potential measures included consideration of the following factors in relation to one another:

(1) The manner in which, and the degree to which, we expect that the successful implementation of the measure would minimize adverse impacts to marine mammals;

(2) The proven or likely efficacy of the specific measure to minimize adverse impacts as planned; and

(3) The practicability of the measure for implementation.

Based on our evaluation of United Launch Alliance's proposed measures, as well as other measures considered by us or recommended by the public, we have preliminarily determined that the mitigation measures provide the means of effecting the least practicable adverse impacts on marine mammals species or stocks and their habitat, paying particular attention to rookeries, mating grounds, and areas of similar significance.

Proposed Monitoring

In order to issue an Incidental Harassment Authorization for an activity, section 101(a)(5)(D) of the Marine Mammal Protection Act states that we must set forth ''requirements pertaining to the monitoring and reporting of such taking.'' The Act's implementing regulations at 50 CFR 216.104 (a)(13) indicate that requests for an authorization must include the suggested means of accomplishing the necessary monitoring and reporting that will result in increased knowledge of the species and our expectations of the level of taking or impacts on populations of marine mammals present in the action area.

As part of its 2012 application for an Authorization, United Launch Alliance proposes to sponsor marine mammal monitoring during the present project, in order to implement the mitigation measures that require real-time monitoring, and to satisfy the monitoring requirements of the incidental harassment authorization. We describe the Monitoring Plan below this section. United Launch Alliance understands that this monitoring plan will be subject to review by us, and that we may require refinements to the plan.

United Launch Alliance will designate a qualified, and biologically trained observer to monitor the area for pinnipeds during all harbor activities. During nighttime activities, United Launch Alliance will illuminate the harbor area and the observer will use a night vision scope. Monitoring activities will consist of the following:

(1) Conducting baseline observation of pinnipeds in the project area prior to initiating project activities.

(2) Conducting and recording observations on pinnipeds in the vicinity of the harbor for the duration of the activity occurring when tides are low enough (less than or equal to 2 ft (0.61 m) for pinnipeds to haul out.

(3) Conducting post-construction observations of pinniped haul-outs in the project area to determine whether animals disturbed by the project activities return to the haul-out.

We have reviewed the monitoring results from previous operations and have incorporated the results into the analysis of potential effects in this document.

Proposed Reporting

United Launch Alliance will notify us two weeks prior to initiation of each activity. After the completion of each activity, they will submit a draft final

monitoring report to us within 120 days to the Director of the Office of Protected Resources at our headquarters. If United Launch Alliance receives no comments from us on the draft Final Monitoring Report, we would consider the draft Final Monitoring Report to be the Final Monitoring Report.

The final report would provide dates, times, durations, and locations of specific activities, details of pinniped behavioral observations, and estimates of numbers of affected pinnipeds and impacts (behavioral or other). In addition, the report would include information on the weather, tidal state, horizontal visibility, and composition (species, gender, and age class) and locations of haul-out group(s).

In the unanticipated event that the specified activity clearly causes the take of a marine mammal in a manner prohibited by the authorization (if issued), such as an injury (Level A harassment), serious injury or mortality (e.g., ship-strike, gear interaction, and/or entanglement), United Launch Alliance shall immediately cease the specified activities and immediately report the incident to the Incidental Take Program Supervisor, Permits and Conservation Division, Office of Protected Resources, NMFS, at 301–427–8401 and/or by email to *Jolie.Harrison@noaa.gov* and *ITP.Cody@noaa.gov* and to the Southwest Regional Stranding Coordinator at (562) 980–3230 (*Sarah.Wilkin@noaa.gov*). The report must include the following information:

- Time, date, and location (latitude/longitude) of the incident;
- Name and type of vessel involved;
- Vessel's speed during and leading up to the incident;
- Description of the incident;
- Status of all sound source use in the 24 hours preceding the incident;
- Water depth;
- Environmental conditions (e.g., wind speed and direction, Beaufort sea state, cloud cover, and visibility);
- Description of all marine mammal observations in the 24 hours preceding the incident;
- Species identification or description of the animal(s) involved;
- Fate of the animal(s); and
- Photographs or video footage of the animal(s) (if equipment is available).

United Launch Alliance shall not resume its activities until we are able to review the circumstances of the prohibited take. We shall work with them to determine what is necessary to minimize the likelihood of further prohibited take and ensure Marine Mammal Protection Act compliance. They may not resume their activities until notified by us via letter, email, or telephone.

In the event that United Launch Alliance discovers an injured or dead marine mammal, and the observer determines that the cause of the injury or death is unknown and the death is relatively recent (i.e., in less than a moderate state of decomposition as we describe in the next paragraph), the United Launch Alliance will immediately report the incident to the Incidental Take Program Supervisor, Permits and Conservation Division, Office of Protected Resources, at 301–427–8401 and/or by email to *Jolie.Harrison@noaa.gov* and *ITP.Cody@noaa.gov* and to the Southwest Regional Stranding Coordinator at (562) 980–3230 (*Sarah.Wilkin@noaa.gov*). The report must include the same information identified in the paragraph above this section. Activities may continue while we review the circumstances of the incident. We will work with the United Launch Alliance to determine whether modifications in the activities are appropriate.

In the event that United Launch Alliance discovers an injured or dead marine mammal, and the observer determines that the injury or death is not associated with or related to the authorized activities (e.g., previously wounded animal, carcass with moderate to advanced decomposition, or scavenger damage), United Launch Alliance will report the incident to the Incidental Take Program Supervisor, Permits and Conservation Division, Office of Protected Resources, at 301–427–8401 and/or by email to *Jolie.Harrison@noaa.gov* and *ITP.Cody@noaa.gov* and the Southwest Regional Stranding Coordinator at (562) 980–3230 (*Sarah.Wilkin@noaa.gov*), within 24 hours of the discovery. United Launch Alliance will provide photographs or video footage (if available) or other documentation of the stranded animal sighting to us.

Estimated Take by Incidental Harassment

Except with respect to certain activities not pertinent here, the Marine Mammal Protection Act defines ''harassment'' as: any act of pursuit, torment, or annoyance which (i) has the potential to injure a marine mammal or marine mammal stock in the wild [Level A harassment]; or (ii) has the potential to disturb a marine mammal or marine mammal stock in the wild by causing disruption of behavioral patterns, including, but not limited to, migration, breathing, nursing, breeding, feeding, or sheltering [Level B harassment].

We propose to authorize take by Level B harassment only for the proposed harbor maintenance and *Delta Mariner* operations in the Base's harbor. Acoustic stimuli (i.e., increased sound) generated during these proposed activities may have the potential to cause marine mammals in the harbor area to experience temporary, short-term changes in behavior.

Based on previous monitoring reports, with the same activities conducted in the proposed operations area, we estimate that approximately 1,161 Pacific harbor seals; 86 California sea lions; and 43 northern elephant seals could be potentially affected by Level B behavioral harassment over the course of the period of effectiveness of the proposed Authorization. We base these estimates on historical pinniped survey counts from 2001 to 2011 and calculated takes by multiplying the average of the maximum abundance by 43 days (i.e., the total number of operational days). Thus, United Launch Alliance requests an Authorization to incidentally harass approximately 1,161 Pacific harbor seals (27 animals by 43 days), 86 California sea lions (2 animals by 43 days), and 43 northern elephant seals (1 animal by 43 days).

There is no evidence that United Launch Alliances planned activities could result in injury, serious injury or mortality within the harbor area for the requested Authorization. Because of the required mitigation measures and the likelihood that some pinnipeds will avoid the area due to wave inundation of the haulout area, the required mitigation and monitoring measures will minimize any potential risk for injury, serious injury, or mortality. Thus, we do not propose to authorize any injury, serious injury or mortality. We expect all potential takes to fall under the category of Level B behavioral harassment only.

Encouraging and Coordinating Research

United Launch Alliance will continue to coordinate monitoring of pinnipeds during Delta IV/EELV activities at the Base's harbor with Vandenberg Air Force Base Asset Management staff and other pinniped monitoring activities occurring on the Base.

United Launch Alliance will submit all information collected during Delta IV/EELV pinniped monitoring events the Asset Management staff for incorporation into the Base-wide monitoring plan to enhance and assist in the increased knowledge and understanding of pinniped populations that occur on the Base's coastline.

The information collected during these monitoring events, along with the information collected for monthly monitoring of pinniped populations and during space vehicle and missile launches is essential for a solid understanding of the trends of these populations of marine mammals and the effects of the Base's activities have on their continued presence. Per the Authorization's requirements, United Launch Alliance will submit monitoring reports and may make the information available to interested parties and researchers at the discretion of both agencies.

Negligible Impact and Small Numbers Analysis and Determination

We have defined ''negligible impact'' in 50 CFR 216.103 as ''* * * an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.'' In making a negligible impact determination, we consider:

(1) The number of anticipated injuries, serious injuries, or mortalities;

(2) The number, nature, and intensity, and duration of Level B harassment (all relatively limited); and

(3) The context in which the takes occur (i.e., impacts to areas of significance, impacts to local populations, and cumulative impacts when taking into account successive/contemporaneous actions when added to baseline data);

(4) The status of stock or species of marine mammals (i.e., depleted, not depleted, decreasing, increasing, stable, impact relative to the size of the population);

(5) Impacts on habitat affecting rates of recruitment/survival; and

(6) The effectiveness of monitoring and mitigation measures.

As mentioned previously, we estimate that three species of marine mammals could be potentially affected by Level B harassment over the course of the Authorization. For each species, these numbers are small (each, less than two percent) relative to the population size.

For reasons stated previously in this document, United Launch Alliance's specified activities are not likely to cause long-term behavioral disturbance, abandonment of the haulout area, serious injury, or mortality because:

(1) The effects of the harbor activities are expected to be limited to short-term startle responses and localized behavioral changes. Minor and brief responses, such as short-duration startle or alert reactions, are not likely to constitute disruption of behavioral patterns, such as migration, nursing, breeding, feeding, or sheltering.

(2) The likelihood that marine mammal detection by trained, visual observers is high at close proximity the harbor;

(3) *Delta Mariner* off-loading operations and associated cargo movements within the harbor would occur at a maximum frequency of four times per year and the vessel's arrival and departure would occur during daylight hours at high tide when the haulout areas are fully submerged and few, if any, pinnipeds are present in the harbor;

(4) The relatively slow operational speed of the *Delta Mariner* (1.5 to 2 kts; 1.72 mph) during its approach to the harbor at high tide and the vessel's slow operational speed (0.75 kts; 0.86 mph) during its approach to the wharf;

(5) There is no potential for large-scale movements leading to serious injury or mortality near the south Base harbor because, historically, the number of harbor seals hauled out near the site is less than 30 individuals;

(6) The specified activities do not occur near rookeries;

(7) The availability of alternate areas near the harbor for pinnipeds to avoid the resultant noise from the maintenance and vessel operations. Results from previous monitoring reports that support our conclusions that the pinnipeds returned to the haulout site during periods of low tide after the disturbance and do not permanently abandon a haul-out site during the conduct of harbor maintenance and Delta Mariner operations.

We do not anticipate that any injuries, serious injuries, or mortalities would occur as a result of United Launch Alliance's proposed activities, and we do not propose to authorize injury, serious injury or mortality. These species may exhibit behavioral modifications, including temporarily vacating the area during the proposed harbor maintenance and *Delta Mariner* operations to avoid the resultant acoustic and visual disturbances. Due to the nature, degree, and context of the behavioral harassment anticipated, the activities are not expected to impact rates of recruitment or survival. Further, these proposed activities would not take place in areas of significance for marine mammal feeding, resting, breeding, or calving and would not adversely impact marine mammal habitat.

We have preliminarily determined, provided that United Launch Alliance carries out the previously described mitigation and monitoring measures, that the impact of conducting harbor activities related to the Delta IV/Evolved Expendable Launch Vehicle at Vandenberg Air Force Base, CA, September 2012, through August 2013, may result, at worst, in a temporary modification in behavior and/or low-level physiological effects (Level B harassment) of small numbers of certain species of marine mammals.

Based on the analysis contained here of the likely effects of the specified activity on marine mammals and their habitat, and taking into consideration the implementation of the mitigation and monitoring measures, have preliminarily determined that the total taking from the proposed activities will have a negligible impact on the affected species or stocks; and that impacts to affected species or stocks of marine mammals would be mitigated to the lowest level practicable.

Impact on Availability of Affected Species or Stock for Taking for Subsistence Uses

Section 101(a)(5)(D) of the Marine Mammal Protection Act also requires us to determine that the authorization will not have an unmitigable adverse effect on the availability of marine mammal species or stocks for subsistence use. There are no relevant subsistence uses of marine mammals in the study area (northeastern Pacific Ocean) that implicate section 101(a)(5)(D) of the Marine Mammal Protection Act.

Endangered Species Act (ESA)

This action will not affect species listed under the Endangered Species Act that are under our jurisdiction. Vandenberg Air Force Base formally consulted with the U.S. Fish and Wildlife Service in 1998 on the possible take of southern sea otters during United Launch Alliance's harbor activities. The U.S. Fish and Wildlife Service issued a Biological Opinion in August 2001, which concluded that the program was not likely to jeopardize the continued existence of the southern sea otter, and that expected no injury or mortality. The activities covered by this proposed Incidental Harassment Authorization are analyzed in that Biological Opinion, and this Authorization does not modify the action in a manner that the U.S. Fish and Wildlife Service had not previously analyzed.

National Environmental Policy Act (NEPA)

In 2001, the U.S. Air Force (Air Force) prepared an Environmental Assessment for Harbor Activities Associated with the Delta IV Program at Vandenberg Air Force Base. In 2005, we prepared an

Environmental Assessment augmenting the information contained in the Air Force's EA and issued a Finding of No Significant Impact on the issuance of an Incidental Harassment Authorization for United Launch Alliance's harbor activities in accordance with section 6.01 of the NOAA Administrative Order 216–6 (Environmental Review Procedures for Implementing the National Environmental Policy Act, May 20, 1999). United Launch Alliance's proposed activities and impacts for 2012–2013 are within the scope of our 2005 Environmental Assessment and Finding of No Significant Impact. We have again reviewed the 2005 Environmental Assessment and determined that there are no new direct, indirect, or cumulative impacts to the human and natural environment associated with the Incidental Harassment Authorization requiring evaluation in a supplemental Environmental Assessment and we, therefore, intend to reaffirm the 2005 Finding of No Significant Impact.

Proposed Authorization

As a result of these preliminary determinations, we propose to authorize the take of marine mammals incidental to United Launch Alliance's proposed harbor activities in the northeast Pacific Ocean, provided they incorporate the previously mentioned mitigation, monitoring, and reporting requirements. The duration of the Incidental harassment Authorization would not exceed one year from the date of its issuance.

Information Solicited

We request interested persons to submit comments and information concerning this proposed project and our preliminary determination of issuing a take authorization (see **ADDRESSES**). Concurrent with the publication of this notice in the **Federal Register**, we will forward copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: June 22, 2012.

Helen M. Golde,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2012–15889 Filed 6–27–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XC032

Taking and Importing Marine Mammals; Precision Strike Weapon and Air-to-Surface Gunnery Training and Testing Operations at Eglin Air Force Base, FL

AGENCY: National Marine Fisheries Service (NMFS), National Oceanic and Atmospheric Administration (NOAA), Commerce.

ACTION: Notice; receipt of application for a Letter of Authorization; request for comments and information.

SUMMARY: NMFS has received an application from the U.S. Department of the Air Force, Headquarters 96th Air Base Wing (U.S. Air Force), Eglin Air Force Base (Eglin AFB) for authorization to take marine mammals, by harassment, incidental to testing and training activities associated with Precision Strike Weapon (PSW) and Air-to-Surface (AS) gunnery missions, both of which are military readiness activities, at Eglin AFB, FL from approximately September 2012, to September 2017. Pursuant to Marine Mammal Protection Act (MMPA) implementing regulations, NMFS announces receipt of the U.S. Air Force's request for the development and implementation of regulations governing the incidental taking of marine mammals and inviting information, suggestions, and comments on the U.S. Air Force's application and request.

DATES: Comments and information must be received no later than July 30, 2012.

ADDRESSES: Comments on the application should be addressed to Michael Payne, Cheif, Permits and Conservation Division, Office of Protected Resources, National Marine Fisheries Service, 1315 East-West Highway, Silver Spring, MD 20910–3225. The mailbox address for providing email comments is *ITP.Hopper@noaa.gov.* NMFS is not responsible for email comments sent to addresses other than the one provided here. Comments sent via email, including all attachments, must not exceed a 10-megabyte file size.

Instructions: All comments received are a part of the public record and will generally be posted to *http://www.nmfs.noaa.gov/pr/permits/incidental.htm* without change. All Personal Identifying Information (for example, name, address, etc.) voluntarily submitted by the commenter may be publicly accessible. Do not submit Confidential Business Information or otherwise sensitive or protected information.

An electronic copy of the application containing a list of the references used in this document may be obtained by writing to the address specified above, telephoning the contact listed below (see **FOR FURTHER INFORMATION CONTACT**), or visiting the Internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm.* Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

FOR FURTHER INFORMATION CONTACT: Brian D. Hopper, Office of Protected Resources, NMFS, 301–427–8401.

SUPPLEMENTARY INFORMATION:

Availability

An electronic copy of the application containing a list of the references used in this document may be obtained by writing to the address specified above, telephoning the contact listed below (see **FOR FURTHER INFORMATION CONTACT**), or visiting the Internet at: *http://www.nmfs.noaa.gov/pr/permits/incidental.htm.*

Documents cited in this notice may be viewed, by appointment, during regular business hours, at the aforementioned address.

Background

In the case of military readiness activities (as defined by section 315(f) of Public Law 107–314; 16 U.S.C. 703 note), sections 101(a)(5)(A) and (D) of the MMPA (16 U.S.C. 1361 *et seq.*) direct the Secretary of Commerce (Secretary) to allow, upon request, the incidental, but not intentional, taking of marine mammals by U.S. citizens who engage in a specified activity (other than commercial fishing) within a specified geographical region if certain findings are made and regulations are issued, or if the taking is limited to harassment an Incidental Harassment Authorization (IHA) is issued. Upon making a finding that an application for incidental take is adequate and complete, NMFS commences the incidental take authorization process by publishing in the **Federal Register** a notice of a receipt of an application for the implementation of regulations or a proposed IHA.

An authorization for the incidental takings may be granted if NMFS finds that the total taking during the relevant period will have a negligible impact on the species or stock(s), and will not have an unmitigable adverse impact on the availability of the species or stock(s) for

subsistence uses (where relevant), and if the permissible methods of taking and requirements pertaining to the mitigation, monitoring and reporting of such takings are set forth to achieve the least practicable adverse impact.

NMFS has defined ''negligible impact'' in 50 CFR 216.103 as: * * * an impact resulting from the specified activity that cannot be reasonably expected to, and is not reasonably likely to, adversely affect the species or stock through effects on annual rates of recruitment or survival.

With respect to military readiness activities, the MMPA defines ''harassment'' as: (i) Any act that injures or has the significant potential to injure a marine mammal or marine mammal stock in the wild (Level A harassment); or (ii) any act that disturbs or is likely to disturb a marine mammal or marine mammal stock in the wild by causing disruption of natural behavioral patterns, including, but not limited to, migration, surfacing, nursing, breeding, feeding, or behavioral patterns are abandoned or significantly altered (Level B harassment).

Summary of Request

On December 30, 2011, NMFS received an application from the U.S. Air Force requesting an authorization for the take of marine mammals incidental to PSW and AS gunnery testing and training operations. The requested regulations would establish a framework for authorizing incidental take in future Letters of Authorization (LOA). These LOAs, if approved, would authorize the take, by Level A (physiological) and Level B (behavioral) harassment, of Atlantic bottlenose dolphin (*Tursiops truncatus*) and Atlantic spotted dolphin (*Stenella frontalis*) incidental to PSW testing and training activities. Takes of dwarf sperm whale (*Kogia simus*), pygmy sperm whale (*K. breviceps*), Atlantic bottlenose dolphins (*Tursiops truncatus*), Atlantic spotted dolphin (*Stenella frontalis*), pan tropical spotted dolphin (*S. attenuate*), and spinner dolphin (*S. longirostris*) by Level B harassment would also be authorized incidental to AS gunnery testing and training operations. PSW missions would involve air-to-surface impacts of two weapons: (1) The Joint Air-to-Surface Stand-off Missile (JASSM) AGM–158 A and B; and (2) the small diameter bomb (SDB) (GBU–39/B), which result in underwater detonations of up to approximately 300 lbs (136 kg) and 96 lbs (43.5 kg, double SDB) of net explosive weight (NEW), respectively. AS gunnery missions would involve surface impacts of projectiles and small underwater detonations. Pursuant to the MMPA, NMFS issued regulations and annual LOAs for PSW activities from 2006 to 2011, and annual Incidental Harassment Authorizations for AS gunnery activities in 2006, 2007, 2008, 2009, 2010, and 2011.

Description of the Specified Activities

This section describes the PSW and AS gunnery testing and training missions that have the potential to affect marine mammals present within the test area. Both are considered to be a ''military readiness activity'' as defined under 16 U.S.C. 703 note, and involve detonations above the water, near the water surface, and under water within the EGTTR. The PSW missions involve the two weapons identified above, the JASSM and SDB, and AS gunnery missions typically involve the use of 25-mm, 40-mm, and 105-mm gunnery rounds. These activities are described in more detail in the following paragraphs.

PSW Missions

The JASSM is a precision cruise missile designed for launch from a variety of aircraft at altitudes greater than 25,000 ft (7.6 km). The JASSM has a range of more than 200 nautical miles (370.4 km) and carries a 1,000-pound warhead. The JASSM has approximately 300 lbs of TNT equivalent net explosive weight (NEW). After launch from the aircraft, the JASSM cruises at altitudes greater than 12,000 ft (3.7 km) for the majority of its flight until making the terminal maneuver towards the target. The testing exercises involving the JASSM would consist of a maximum of two live shots (single) and four inert shots (single) during the year. One live shot will detonate in water and one will detonate in air. Detonation of the JASSM would occur under one of the following three scenarios: (1) Detonation upon impact with the target (about 1.5 m above the water's surface); (2) detonation upon impact with a barge target at the surface of the water; or (3) detonation at 120 milliseconds after contact with the surface of the water.

The SDB is a GPS-guided bomb that can be carried and launched from most USAF aircraft, which makes it an important element of the USAF's Global Strike Task Force. The SDB has a range of up to 50 nautical miles and carries a 217-lb warhead. The SDB has approximately 48 lbs of TNT equivalent NEW. After being released from the aircraft at an altitude greater than 15,000 ft (4.6 km), the SDB deploys ''Diamond Back'' type wings that increase glide time and range as it descends towards the target. Exercises involving the SDB consist of a maximum of six live shots with two of the shots occurring simultaneously, and a maximum of 12 inert shots with up to two occurring simultaneously.

Chase aircraft will accompany the launch of JASSM and SDB ordnance. Chase aircraft include F–15, F–16, and T–38 aircraft. These aircraft would follow the test items during captive carry and free flight, but would not follow either item below a predetermined altitude as directed by Flight Safety. Other airborne assets on site may include an E–9 turboprop aircraft or MH–60/53 helicopters circling around the target location. Tanker aircraft, including KC–10s and KC–135s, would also be used for aerial refueling of aircraft involved in training exercises. In addition, an unmanned barge may also be on location to hold instrumentation. If used, the barge would be up to 1,000 ft (304.8 m) away from the target location.

Based on availability, there are two possible target types to be used for the PSW mission tests. The first is a Container Express (CONEX) target (see figure 1–4 in Eglin AFB's application) that consists of five containers strapped, braced, and welded together to form a single structure. The dimensions of each container are approximately 8 ft by 8 ft by 40 ft (2.4 m by 2.4 m by 12.2 m). Each container would contain 200 55-gallon steel drums (filled with air and sealed) to provide buoyancy for the target. The second type of target is a hopper barge, which is a non-self propelled vessel typically used for transportation of bulk cargo (see figure 1–5 in Eglin AFB's application). A typical hopper barge is approximately 30 ft by 12 ft and 125 ft long (9.1 m by 3.7 m and 38.1 m long). The targets would be held in place by a 4-point anchoring system using cables.

PSW testing and training activities conducted by Eglin AFB would occur in the northern GOM in the EGTTR. Targets would be located in water less than 200 ft (61 m) deep and from 15 to 24 nm (27.8 to 44.5 km) offshore, south of Santa Rosa Island and south of Cape San Blas Site D3–A. PSW test missions may occur during any season of the year, but only during daytime hours.

AS Gunnery Missions

AS gunnery missions involve the firing of 25-mm, 40-mm, and 105-mm gunnery rounds from a circling AC–130 gunship. Each round contains 30 g, 392 g, and 2.1 kg of explosive, respectively. Live rounds must be used to produce a visible surface splash that must be used to ''score'' the round (the impact of inert rounds on the sea surface would not be detected). The U.S. Air Force has

developed a 105-mm training round (TR) that contains less than 10 percent of the amount of explosive material (0.16 kg) as compared to the ''Full-Up'' (FU) 105-mm round. The TR was developed as one method to mitigate effects on marine life during nighttime AS gunnery exercises when visibility at the water surface is poor. However, the TR cannot be used in the daytime because the amount of explosive material is insufficient to be detected from the aircraft. To establish the test target area, two Mk–25 flares are deployed or a target is towed into the center of a 9.3 km cleared area on the water's surface. A typical gunship mission lasts approximately 5 hrs without refueling and 6 hrs when air-to-air refueling is accomplished.

Water ranges within the EGTTR that are typically used for AS gunnery operations are located in the GOM offshore from the Florida Panhandle (areas W–151A, W151B, W–151C, and W–151D as shown in Figure 1–9 in the Eglin AFB application). Data indicate that W–151A (Figure 1–10 in the Eglin AFB application) is the most frequently used water range due to its proximity to Hurlburt Field, but activities may occur anywhere within the EGTTR. Eglin AFB proposes to conduct AS gunnery missions year round during both daytime and nighttime hours.

Additional information on the Eglin AFB training operations is contained in the application, which is available upon request (see **ADDRESSES**).

Information Solicited

Interested persons may submit information, suggestions, and comments related to the U.S. Air Force's request (see **ADDRESSES**). All information, suggestions, and comments related to the U.S. Air Force's PSW and AS gunnery testing and training operations request and NMFS' potential development and implementation of regulations governing the incidental taking of marine mammals by Eglin AFB's PSW and AS gunnery testing and training operations will be considered by NMFS in developing, if appropriate, the most effective regulations governing the issuance of Letters of Authorization.

Dated: June 22, 2012.

Helen M. Golde,

Acting Director, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. 2012–15925 Filed 6–27–12; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Telecommunications and Information Administration

Multistakeholder Process To Develop Consumer Data Privacy Code of Conduct Concerning Mobile Application Transparency

AGENCY: National Telecommunications and Information Administration, U.S. Department of Commerce.

ACTION: Notice of open meeting.

SUMMARY: The National Telecommunications and Information Administration (NTIA) will convene the first meeting of a privacy multistakeholder process concerning mobile application transparency on July 12, 2012.

DATES: The meeting will be held on July 12, 2012, from 9:30 a.m. to 4:30 p.m., Eastern Daylight Time.

ADDRESSES: The meeting will be held in the Auditorium of the U.S. Department of Commerce, Herbert C. Hoover Building, 14th Street and Constitution Avenue NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: John Verdi, National Telecommunications and Information Administration, U.S. Department of Commerce, 1401 Constitution Avenue NW., Room 4725, Washington, DC 20230; telephone (202) 482–8238; email *jverdi@ntia.doc.gov.* Please direct media inquiries to NTIA's Office of Public Affairs, (202) 482–7002.

SUPPLEMENTARY INFORMATION:

Background: On February 23, 2012, the White House released *Consumer Data Privacy in a Networked World: A Framework for Protecting Privacy and Promoting Innovation in the Global Digital Economy* (the ''Privacy Blueprint'').[1] The Privacy Blueprint directs NTIA to convene multistakeholder processes to develop legally enforceable codes of conduct that specify how the Consumer Privacy Bill of Rights applies in specific business contexts.[2] On June 15, 2012, NTIA announced that the goal of the first multistakeholder process is to develop a code of conduct to provide transparency in how companies providing applications and interactive services for mobile devices handle personal data.[3]

Matters to Be Considered: The July 12, 2012, meeting will be the first in a series of NTIA-convened multistakeholder discussions concerning mobile application transparency. Stakeholders will engage in an open, transparent, consensus-driven process to develop a code of conduct regarding mobile application transparency. The objectives of the July 12, 2012, meeting are to: (1) Promote discussion among stakeholders concerning mobile app transparency by employing a structured, open process; and (2) provide a venue for stakeholders to agree on the schedule and format of future meetings.

Time and Date: NTIA will convene the first meeting of the privacy multistakeholder process on July 12, 2012, from 9:30 a.m. to 4:30 p.m., Eastern Daylight Time.

Place: The meeting will be held in the Auditorium of the U.S. Department of Commerce, Herbert C. Hoover Building, 14th Street and Constitution Avenue NW., Washington, DC.

Other Information: The meeting is open to the public and the press. Attendees should arrive at least one-half hour prior to the start of the meeting. Due to security requirements and to facilitate entry to the Department of Commerce building, U.S. nationals must present a valid, government-issued photo identification upon arrival. Foreign nationals must contact John Verdi at (202) 482–8238 or *jverdi@ntia.doc.gov* at least five (5) business days prior to the meeting in order to provide the necessary clearance information, and must present a valid, government-issued photo identification upon arrival. This meeting is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to John Verdi at (202) 482–8238 or *jverdi@ntia.doc.gov* at least seven (7) business days prior to the meeting. The meeting will also be webcast. There will be an opportunity for stakeholders viewing the webcast to participate remotely in the meeting through an NTIA in-room proxy. Please refer to NTIA's Web site, *http://www.ntia.doc.gov/other-publication/2012/july-12-2012-privacy-multistakeholder-meeting-details,* for webcast and remote participation information.

Dated: June 22, 2012.

Kathy Smith,

Chief Counsel, National Telecommunications and Information Administration.

[FR Doc. 2012–15767 Filed 6–27–12; 8:45 am]

BILLING CODE 3510–60–P

[1] The Privacy Blueprint is available at *http://www.whitehouse.gov/sites/default/files/privacy-final.pdf.*

[2] *Id.*

[3] NTIA, *First Privacy Multistakeholder Meeting: July 12, 2012, http://www.ntia.doc.gov/other-publication/2012/first-privacy-multistakeholder-meeting-july-12-2012.*

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket ID DOD–2012–OS–0078]

Privacy Act of 1974; System of Records

AGENCY: Office of the Inspector General, DoD.

ACTION: Notice To Alter a System of Records.

SUMMARY: The Office of the Inspector General proposes to alter a system of records in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended. This system claims those exempt records that are or may be incorporated into this system of records which will remain exempt, but only to the extent to which the provisions of the Act for which an exemption has been claimed are identified and an exemption claimed for the system of records from which the record is obtained and only when the purposes underlying the exemption for the record are still valid and necessary to protect the contents of the record.

DATES: This proposed action will be effective on July 30, 2012 unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

* *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

* *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, 2nd Floor, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name and docket number for this Federal Register document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Tanya Layne at (703) 604–9779, Office of the Inspector General, 4800 Mark Center Drive, Alexandria, Virginia 22350–1500.

SUPPLEMENTARY INFORMATION: The Office of the Inspector General notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT**.

The proposed systems reports, as required by 5 U.S.C. 552a(r) of the Privacy Act, were submitted on June 18, 2012 to the House Committee on Oversight and Government Reform, the Senate Committee on Homeland Security and Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records about Individuals,'' dated February 8, 1996, (February 20, 1996, 61 FR 6427).

Dated: June 25, 2012.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

CIG–23

SYSTEM NAME:

Public Affairs Files (August 7, 2006, 71 FR 44667)

CHANGES:

* * * * *

SYSTEM NAME:

Delete entry and replace with ''SCOUT and Public Affairs Files.''

SYSTEM LOCATION:

Delete entry and replace with ''Office of the Inspector General Department of Defense, 4800 Mark Center Drive, Alexandria, Virginia 22350–1500.''

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with ''Records created or compiled in response to an inquiry, to include the response to the inquiry. Records may include staff packages, complaints, appeals, grievances, investigations, news media reports and articles pertaining to the DoD OIG military and civilian officials and Presidential Appointees to document the nature and details of inquiries; news media reports and articles pertaining to DoD OIG components, commands and/or systems; Congressional testimony and/or hearing transcripts; DoD military and civilian personnel speeches; Presidential and Congressional speeches pertaining to DoD OIG interests.''

* * * * *

PURPOSE(S):

Delete entry and replace with ''To collect information about DoD OIG activities and functions and maintain a record of actions taken and responses.''

* * * * *

RETRIEVABILITY:

Delete entry and replace with ''Retrieved by name, subject or document date.''

* * * * *

RETENTION AND DISPOSAL:

Delete entry and replace with ''Recordkeeping copies (paper) destroy after 1 year. Copies created on electronic mail and word processing systems delete after recordkeeping copy has been produced.''

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with ''Office of the Inspector General Department of Defense, 4800 Mark Center Drive, Alexandria, Virginia 22350–1500.''

NOTIFICATION PROCEDURE:

Delete entry and replace with ''Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Freedom of Information Act Requester Service Center/Privacy Act Office, Office of the Inspector General, Department of Defense, 4800 Mark Center Drive, Alexandria, Virginia 22350–1500.

Written request should contain the individual's full name, all former names and any alias(s) of the requester under which the file may be maintained. The request must be signed.''

RECORD ACCESS PROCEDURES:

Delete entry and replace with ''Individuals seeking access to information about themselves contained in this system should address written inquiries to the Chief, Freedom of Information and Privacy Act Office, Office of the Inspector General Department of Defense, 4800 Mark Center Drive, Alexandria, Virginia 22350–1500.

Written request should contain the individual's full name, all former names and any alias(s) of the requester under which the file may be maintained. The request must be signed.''

* * * * *

RECORD SOURCE CATEGORIES:

Delete entry and replace with ''Information obtained from the Department of Defense Military Services and it's Components, U.S. Congress, DoD OIG Hotline, general public, public media, and source documents such as reports of investigation and/or audit.''

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Delete entry and replace with ''During the course of processing a request, exempt materials from other systems of

records may become part of the records in this system. To the extent that copies of exempt records from those other systems of records are entered into this database, the Office of the Inspector General, DoD, hereby claims the same exemptions for the records from those other systems that are entered into this system, as claimed for the original primary systems of records which they are a part.

An exemption rule for this system has been promulgated in accordance with requirements of 5 U.S.C. 553(b)(1), (2), and (3), (c) and (e) and published in 32 CFR part 312. For additional information contact the system manager.''

[FR Doc. 2012–15857 Filed 6–27–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF DEFENSE

Office of the Secretary

Revised Non-Foreign Overseas Per Diem Rates

AGENCY: DoD, Per Diem, Travel and Transportation Allowance Committee.

ACTION: Notice of Revised Non-Foreign Overseas Per Diem Rates.

SUMMARY: The Per Diem, Travel and Transportation Allowance Committee is publishing Civilian Personnel Per Diem Bulletin Number 283. This bulletin lists revisions in the per diem rates prescribed for U.S. Government employees for official travel in Alaska, Hawaii, Puerto Rico, the Northern Mariana Islands and Possessions of the United States. AEA changes announced in Bulletin Number 194 remain in effect. Bulletin Number 283 is being published in the **Federal Register** to assure that travelers are paid per diem at the most current rates.

DATES: *Effective Date:* July 1, 2012

FOR FURTHER INFORMATION CONTACT: Mrs. Sonia Malik, 571–372–1276.

SUPPLEMENTARY INFORMATION: This document gives notice of revisions in per diem rates prescribed by the Per Diem Travel and Transportation Allowance Committee for non-foreign areas outside the continental United States. It supersedes Civilian Personnel Per Diem Bulletin Number 282. Distribution of Civilian Personnel Per Diem Bulletins by mail was discontinued. Per Diem Bulletins published periodically in the **Federal Register** now constitute the only notification of revisions in per diem rates to agencies and establishments outside the Department of Defense. For more information or questions about per diem rates, please contact your local travel office. The text of the Bulletin follows: The changes in Civilian Bulletin 283 are updated rates for Guam and Northern Mariana Islands.

Dated: June 25, 2012.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

BILLING CODE 5001–06–P

Maximum Per Diem Rates for official travel in Alaska, Hawaii, the Commonwealths of Puerto Rico and the Northern Islands and Possessions of the United States by Federal Government civilian employees.

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
ALASKA						
[OTHER]						
01/01 - 12/31	110		105		215	2/1/2012
ADAK						
01/01 - 12/31	120		79		199	7/1/2003
ANCHORAGE [INCL NAV RES]						
05/16 - 09/30	181		104		285	2/1/2012
10/01 - 05/15	99		96		195	2/1/2012
BARROW						
01/01 - 12/31	159		95		254	10/1/2002
BETHEL						
01/01 - 12/31	157		99		256	7/1/2011
BETTLES						
01/01 - 12/31	135		62		197	10/1/2004
CLEAR AB						
01/01 - 12/31	90		82		172	10/1/2006
COLDFOOT						
01/01 - 12/31	165		70		235	10/1/2006
COPPER CENTER						
09/16 - 05/14	99		95		194	2/1/2012
05/15 - 09/15	149		99		248	2/1/2012
CORDOVA						
01/01 - 12/31	95		109		204	2/1/2012
CRAIG						
10/01 - 04/30	99		78		177	11/1/2011
05/01 - 09/30	129		81		210	11/1/2011
DELTA JUNCTION						
01/01 - 12/31	129		62		191	2/1/2012
DENALI NATIONAL PARK						
05/01 - 09/30	159		101		260	2/1/2012
10/01 - 04/30	89		94		183	2/1/2012

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
DILLINGHAM						
05/15 - 10/15	185		111		296	1/1/2011
10/16 - 05/14	169		109		278	1/1/2011
DUTCH HARBOR-UNALASKA						
01/01 - 12/31	121		102		223	2/1/2012
EARECKSON AIR STATION						
01/01 - 12/31	90		77		167	6/1/2007
EIELSON AFB						
09/16 - 05/14	75		92		167	2/1/2012
05/15 - 09/15	175		102		277	2/1/2012
ELFIN COVE						
01/01 - 12/31	175		46		221	2/1/2012
ELMENDORF AFB						
05/16 - 09/30	181		104		285	2/1/2012
10/01 - 05/15	99		96		195	2/1/2012
FAIRBANKS						
05/15 - 09/15	175		102		277	2/1/2012
09/16 - 05/14	75		92		167	2/1/2012
FOOTLOOSE						
01/01 - 12/31	175		18		193	10/1/2002
FT. GREELY						
01/01 - 12/31	129		62		191	2/1/2012
FT. RICHARDSON						
05/16 - 09/30	181		104		285	2/1/2012
10/01 - 05/15	99		96		195	2/1/2012
FT. WAINWRIGHT						
05/15 - 09/15	175		102		277	2/1/2012
09/16 - 05/14	75		92		167	2/1/2012
GAMBELL						
01/01 - 12/31	105		39		144	1/1/2011
GLENNALLEN						
05/15 - 09/15	149		99		248	2/1/2012
09/16 - 05/14	99		95		194	2/1/2012
HAINES						

LOCALITY		MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
01/01	- 12/31	107		101		208	1/1/2011
HEALY							
05/01	- 09/30	159		101		260	2/1/2012
10/01	- 04/30	89		94		183	2/1/2012
HOMER							
09/16	- 05/04	79		108		187	2/1/2012
05/05	- 09/15	167		117		284	2/1/2012
JUNEAU							
05/16	- 09/15	149		104		253	2/1/2012
09/16	- 05/15	135		103		238	2/1/2012
KAKTOVIK							
01/01	- 12/31	165		86		251	10/1/2002
KAVIK CAMP							
01/01	- 12/31	150		69		219	10/1/2002
KENAI-SOLDOTNA							
05/01	- 08/31	179		102		281	2/1/2012
09/01	- 04/30	79		92		171	2/1/2012
KENNICOTT							
01/01	- 12/31	175		111		286	2/1/2012
KETCHIKAN							
05/01	- 09/30	140		97		237	2/1/2012
10/01	- 04/30	99		94		193	2/1/2012
KING SALMON							
05/01	- 10/01	225		91		316	10/1/2002
10/02	- 04/30	125		81		206	10/1/2002
KLAWOCK							
05/01	- 09/30	129		81		210	11/1/2011
10/01	- 04/30	99		78		177	11/1/2011
KODIAK							
05/01	- 09/30	152		93		245	2/1/2012
10/01	- 04/30	100		88		188	2/1/2012
KOTZEBUE							
01/01	- 12/31	219		115		334	2/1/2012
KULIS AGS							

LOCALITY		MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
10/01	- 05/15	99		96		195	2/1/2012
05/16	- 09/30	181		104		285	2/1/2012
MCCARTHY							
01/01	- 12/31	175		111		286	2/1/2012
MCGRATH							
01/01	- 12/31	165		69		234	10/1/2006
MURPHY DOME							
05/15	- 09/15	175		102		277	2/1/2012
09/16	- 05/14	75		92		167	2/1/2012
NOME							
01/01	- 12/31	140		132		272	2/1/2012
NUIQSUT							
01/01	- 12/31	180		53		233	10/1/2002
PETERSBURG							
01/01	- 12/31	110		105		215	2/1/2012
POINT HOPE							
01/01	- 12/31	200		49		249	1/1/2011
POINT LAY							
01/01	- 12/31	225		51		276	8/1/2011
PORT ALEXANDER							
01/01	- 12/31	150		43		193	8/1/2010
PORT ALSWORTH							
01/01	- 12/31	135		88		223	10/1/2002
PRUDHOE BAY							
01/01	- 12/31	170		68		238	1/1/2011
SELDOVIA							
05/05	- 09/15	167		117		284	2/1/2012
09/16	- 05/04	79		108		187	2/1/2012
SEWARD							
05/01	- 10/15	172		103		275	2/1/2012
10/16	- 04/30	85		95		180	2/1/2012
SITKA-MT. EDGECUMBE							
10/01	- 04/30	99		90		189	2/1/2012
05/01	- 09/30	119		92		211	2/1/2012

LOCALITY		MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
SKAGWAY							
10/01	- 04/30	99		94		193	2/1/2012
05/01	- 09/30	140		97		237	2/1/2012
SLANA							
05/01	- 09/30	139		55		194	2/1/2005
10/01	- 04/30	99		55		154	2/1/2005
SPRUCE CAPE							
05/01	- 09/30	152		93		245	2/1/2012
10/01	- 04/30	100		88		188	2/1/2012
ST. GEORGE							
01/01	- 12/31	129		55		184	6/1/2004
TALKEETNA							
01/01	- 12/31	100		89		189	10/1/2002
TANANA							
01/01	- 12/31	140		132		272	2/1/2012
TOK							
05/15	- 09/30	95		89		184	2/1/2012
10/01	- 05/14	85		88		173	2/1/2012
UMIAT							
01/01	- 12/31	350		64		414	2/1/2012
VALDEZ							
05/16	- 09/14	159		89		248	2/1/2012
09/15	- 05/15	119		85		204	2/1/2012
WAINWRIGHT							
01/01	- 12/31	175		83		258	1/1/2011
WASILLA							
05/01	- 09/30	153		90		243	2/1/2012
10/01	- 04/30	89		84		173	2/1/2012
WRANGELL							
10/01	- 04/30	99		94		193	2/1/2012
05/01	- 09/30	140		97		237	2/1/2012
YAKUTAT							
01/01	- 12/31	105		94		199	1/1/2011
AMERICAN SAMOA							

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
AMERICAN SAMOA						
01/01 - 12/31	139		122		261	12/1/2010
GUAM						
GUAM (INCL ALL MIL INSTAL)						
01/01 - 12/31	159		96		255	7/1/2012
HAWAII						
[OTHER]						
07/01 - 08/21	114		118		232	5/1/2012
08/22 - 06/30	104		117		221	5/1/2012
CAMP H M SMITH						
01/01 - 12/31	177		126		303	5/1/2012
EASTPAC NAVAL COMP TELE AREA						
01/01 - 12/31	177		126		303	5/1/2012
FT. DERUSSEY						
01/01 - 12/31	177		126		303	5/1/2012
FT. SHAFTER						
01/01 - 12/31	177		126		303	5/1/2012
HICKAM AFB						
01/01 - 12/31	177		126		303	5/1/2012
HONOLULU						
01/01 - 12/31	177		126		303	5/1/2012
ISLE OF HAWAII: HILO						
07/01 - 08/21	114		118		232	5/1/2012
08/22 - 06/30	104		117		221	5/1/2012
ISLE OF HAWAII: OTHER						
01/01 - 12/31	180		129		309	5/1/2012
ISLE OF KAUAI						
01/01 - 12/31	243		131		374	5/1/2012
ISLE OF MAUI						
01/01 - 12/31	209		137		346	5/1/2012
ISLE OF OAHU						
01/01 - 12/31	177		126		303	5/1/2012
KEKAHA PACIFIC MISSILE RANGE FAC						

LOCALITY	MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
01/01 - 12/31	243		131		374	5/1/2012
KILAUEA MILITARY CAMP						
07/01 - 08/21	114		118		232	5/1/2012
08/22 - 06/30	104		117		221	5/1/2012
LANAI						
01/01 - 12/31	249		155		404	5/1/2012
LUALUALEI NAVAL MAGAZINE						
01/01 - 12/31	177		126		303	5/1/2012
MCB HAWAII						
01/01 - 12/31	177		126		303	5/1/2012
MOLOKAI						
01/01 - 12/31	131		89		220	5/1/2012
NAS BARBERS POINT						
01/01 - 12/31	177		126		303	5/1/2012
PEARL HARBOR						
01/01 - 12/31	177		126		303	5/1/2012
SCHOFIELD BARRACKS						
01/01 - 12/31	177		126		303	5/1/2012
WHEELER ARMY AIRFIELD						
01/01 - 12/31	177		126		303	5/1/2012
MIDWAY ISLANDS						
MIDWAY ISLANDS						
01/01 - 12/31	125		68		193	5/1/2012
NORTHERN MARIANA ISLANDS						
[OTHER]						
01/01 - 12/31	85		76		161	7/1/2012
ROTA						
01/01 - 12/31	130		106		236	7/1/2012
SAIPAN						
01/01 - 12/31	140		87		227	7/1/2012
TINIAN						
01/01 - 12/31	85		76		161	7/1/2012
PUERTO RICO						

LOCALITY		MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
[OTHER]							
01/01	- 12/31	109		112		221	6/1/2012
AGUADILLA							
01/01	- 12/31	124		113		237	9/1/2010
BAYAMON							
01/01	- 12/31	195		128		323	9/1/2010
CAROLINA							
01/01	- 12/31	195		128		323	9/1/2010
CEIBA							
01/01	- 12/31	210		141		351	11/1/2010
CULEBRA							
01/01	- 12/31	150		98		248	3/1/2012
FAJARDO [INCL ROOSEVELT RDS NAVSTAT]							
01/01	- 12/31	210		141		351	11/1/2010
FT. BUCHANAN [INCL GSA SVC CTR, GUAYNABO]							
01/01	- 12/31	195		128		323	9/1/2010
HUMACAO							
01/01	- 12/31	210		141		351	11/1/2010
LUIS MUNOZ MARIN IAP AGS							
01/01	- 12/31	195		128		323	9/1/2010
LUQUILLO							
01/01	- 12/31	210		141		351	11/1/2010
MAYAGUEZ							
01/01	- 12/31	109		112		221	9/1/2010
PONCE							
01/01	- 12/31	149		87		236	9/1/2010
RIO GRANDE							
01/01	- 12/31	169		123		292	6/1/2012
SABANA SECA [INCL ALL MILITARY]							
01/01	- 12/31	195		128		323	9/1/2010
SAN JUAN & NAV RES STA							
01/01	- 12/31	195		128		323	9/1/2010
VIEQUES							

LOCALITY		MAXIMUM LODGING AMOUNT (A)	+	MEALS AND INCIDENTALS RATE (B)	=	MAXIMUM PER DIEM RATE (C)	EFFECTIVE DATE
01/01 - 12/31		175		95		270	3/1/2012
VIRGIN ISLANDS (U.S.)							
ST. CROIX							
04/15 - 12/14		135		92		227	5/1/2006
12/15 - 04/14		187		97		284	5/1/2006
ST. JOHN							
04/15 - 12/14		163		98		261	5/1/2006
12/15 - 04/14		220		104		324	5/1/2006
ST. THOMAS							
04/15 - 12/14		240		105		345	5/1/2006
12/15 - 04/14		299		111		410	5/1/2006
WAKE ISLAND							
WAKE ISLAND							
01/01 - 12/31		145		42		187	7/1/2011

[FR Doc. 2012–15870 Filed 6–27–12; 8:45 am]
BILLING CODE 5001–06–C

DEPARTMENT OF DEFENSE

Department of the Navy

[Docket ID USN–2012–0009]

Privacy Act of 1974; System of Records

AGENCY: Department of the Navy, DoD.

ACTION: Notice To Alter a System of Records.

SUMMARY: The Office of the Department of the Navy proposes to alter a system of records in its inventory of record systems subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended.

DATES: This proposed action will be effective on July 30, 2012 unless comments are received which result in a contrary determination.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

* *Federal Rulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

* *Mail:* Federal Docket Management System Office, 4800 Mark Center Drive, East Tower, 2nd Floor, Suite 02G09, Alexandria, VA 22350–3100.

Instructions: All submissions received must include the agency name and docket number for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: Ms. Robin Patterson, HEAD, FOIA/Privacy Act Policy Branch, Department of the Navy, 2000 Navy Pentagon, Washington, DC 20350–2000, or by phone at (202) 685–6546.

SUPPLEMENTARY INFORMATION: The Office of the Secretary of Defense notices for systems of records subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, have been published in the **Federal Register** and are available from the address in **FOR FURTHER INFORMATION CONTACT.** The proposed system report, as required by 5 U.S.C. 552a(r) of the Privacy Act of 1974, as amended, was submitted on June 22, 2012, to the House Committee on Oversight and Government Reform, the Senate Committee on Governmental Affairs, and the Office of Management and Budget (OMB) pursuant to paragraph 4c of Appendix I to OMB Circular No. A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated February 8, 1996 (February 20, 1996, 61 FR 6427).

Dated: June 22, 2012.

Aaron Siegel,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

NM01500–10

SYSTEM NAME:

Navy Training Management and Planning System (NTMPS), (August 24, 2005, 70 FR 49595).

CHANGES:

* * * * *

SYSTEM LOCATION:

Delete entry and replace with ''Naval Undersea Warfare Center Division (NUWC) Newport, Bldg 104, NUWC Division Newport Datacenter, 1176 Howell St., Newport, RI 02841–5047.''

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Delete entry and replace with ''Active and reserve duty U.S. Navy and Marine Corps military personnel, Navy contractors and civilian personnel.''

CATEGORIES OF RECORDS IN THE SYSTEM:

Delete entry and replace with ''Name, Social Security Number (SSN), date of birth, gender, race/ethnicity, professional qualifications and skills, training courses completed, certifications received, level of education, military awards received, duty assignments, language skills, security clearance information (code, eligibility, date granted, agency granting, investigation completion date and investigation type code), rate/rank, status, branch of service, activity Unit

Identification Code (UIC), Employee ID (The Personnel Command PeopleSoft database generated system identification number to be used between systems passing personnel data), and DoD ID Number.''

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Delete entry and replace with ''10 U.S.C. 5013, Secretary of the Navy; July 2008 NAVADMIN 203/08 Combating Trafficking in Persons (CTIP) Training Policy Update; DODI 8500.2, Information Assurance Implementation; OPNAVINST 5351.2, Enlisted Navy Leadership Development (NAVLEAD); April 2009 NAVADMIN 114/09 Trafficking in Personnel Policy Update; OPNAVINST 1500.22F, United States Navy Personnel Financial Management (PFM) Education, Training, and Counseling Program; and E.O. 9397 (SSN), as amended.''

PURPOSE(S):

Delete entry and replace with ''The purpose of this system is to maintain a listing of training, education, and qualifications for use by Manpower, Personnel, Training and Education (MPTE) managers. The system will also provide projections of training requirements.''

* * * * *

STORAGE:

Delete entry and replace with ''Electronic storage media.''

RETRIEVABILITY:

Delete entry and replace with ''Name, SSN, Employee ID, and Activity Unit Identification Code (UIC).''

SAFEGUARDS:

Delete entry and replace with ''The NTMPS servers are located in a secure area at NUWC Newport. Access to the data marts is controlled through CAC login. All data transferred is encrypted. The interface server is protected from attempts to penetrate the firewall through the existing NUWC and NMCI controls. NTMPS users are limited to viewing data approved by their command supervisor.''

RETENTION AND DISPOSAL:

Delete entry and replace with ''Source records are retained per guidelines of source systems/database. All records residing internally on NTMPS servers or saved on external media are destroyed when no longer needed or after 2 years, whichever is longer.''

SYSTEM MANAGER(S) AND ADDRESS:

Delete entry and replace with ''Commander Program Executive Office for Enterprise Information Systems (PEO–EIS), (ATTN: PMW–240 Program Manager), 2451 Crystal Drive, Suite 1139, Arlington, VA 22202–4804.''

NOTIFICATION PROCEDURE:

Delete entry and replace with ''Individuals seeking to determine whether information about themselves is contained in this system should address written inquiries to the Commander, Program Executive Office for Enterprise Information Systems (PEO–EIS), (ATTN: PMW–240 Program Manager), 2451 Crystal Drive, Suite 1139, Arlington, VA 22202–4804.

Written request should contain full name, current rate/rank, status, branch of service, and must be signed.

The system manager may require an original signature or a notarized signature as a means of proving the identity of the individual requesting access to the records.''

RECORD ACCESS PROCEDURES:

Delete entry and replace with ''Individuals seeking access to additional information about themselves contained in this system should address written inquiries to the Commander Program Executive Office for Enterprise Information Systems (PEO–EIS), (ATTN: PMW–240 Program Manager), 2451 Crystal Drive, Suite 1139, Arlington, VA 22202–4804.

Written request should contain full name, current rate/rank, status, branch of service, and must be signed.

The system manager may require an original signature or a notarized signature as a means of proving the identity of the individual requesting access to the records.''

* * * * *

RECORD SOURCE CATEGORIES:

Delete entry and replace with ''Individual and DON Privacy Act systems of records, including: N01080–1, Enlisted Master File; N01080–2, Officer Master File; N01500–3, Student/Smart/VLS Records, NM01560–1 Navy College Management Information System, NM01500–3 Advanced Skills Management (ASM) System, NM01500–9 Integrated Learning Environment (ILE) Classes, NM01500–2 Department of the Navy (DON) Education and Training Records, N07220–1 Navy Standard Integrated Personnel System (NSIPS), and NM05100–5 Enterprise Safety Applications Management System (ESAMS).''

* * * * *

[FR Doc. 2012–15799 Filed 6–27–12; 8:45 am]

BILLING CODE 5001–06–P

DEPARTMENT OF EDUCATION

Notice of Submission for OMB Review; Federal Student Aid; Pell Grant, ACG, and National SMART Reporting Under the Common Origination and Disbursement (COD) System

SUMMARY: The COD system is used by institutions to request, report, and reconcile grant funds received from the Pell Grant program.

DATES: Interested persons are invited to submit comments on or before July 30, 2012.

ADDRESSES: Written comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov* or mailed to U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Washington, DC 20202–4537. Copies of the proposed information collection request may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 04843. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue SW., LBJ, Washington, DC 20202–4537. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–401–0920. Please specify the complete title of the information collection and OMB Control Number when making your request.

Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. chapter 35) requires that Federal agencies provide interested parties an early opportunity to comment on information collection requests. The Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management, publishes this notice containing proposed information collection requests at the beginning of the Departmental review of the information collection. The Department of Education is especially interested in public comment addressing the following issues: (1) Is this collection necessary to the proper functions of the Department; (2) will this information be processed and used in a timely manner; (3) is the estimate of burden accurate; (4) how might the Department enhance the quality, utility, and clarity of the

information to be collected; and (5) how might the Department minimize the burden of this collection on the respondents, including through the use of information technology. Please note that written comments received in response to this notice will be considered public records.

Title of Collection: Pell Grant, ACG, and National SMART Reporting under the Common Origination and Disbursement (COD) System.

OMB Control Number: 1845–0039.

Type of Review: Extension.

Total Estimated Number of Annual Responses: 6,019,900.

Total Estimated Number of Annual Burden Hours: 507,362.

Abstract: The Federal Pell Grant, ACG, and National SMART Programs are student financial assistance programs, authorized under the Higher Education Act of 1965 (HEA), as amended, which provide grant assistance to an eligible student attending an institution of higher education. The institution determines the student's award and disburses program funds to the student on behalf of the U.S. Department of Education (ED). To account for the funds disbursed, institutions report student payment information to ED electronically. Electronic reporting is conducted through the Common Origination and Disbursement (COD) system. The COD system is used by institutions to request, report, and reconcile grant funds received from the Pell Grant program.

Dated: June 22, 2012.

Darrin A. King,

Director, Information Collection Clearance Division, Privacy, Information and Records Management Services, Office of Management.

[FR Doc. 2012–15911 Filed 6–27–12; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Privacy Act of 1974; Computer Matching Program

AGENCY: Department of Education.

ACTION: Notice—Computer matching agreement between the Department of Education and the Department of Defense.

SUMMARY: This document provides notice of the continuation of the computer matching program between the Departments of Education (ED) and Defense (DoD). The continuation is effective on the date specified in paragraph 5.

SUPPLEMENTARY INFORMATION: Section 473(b) of the Higher Education Act of 1965, as amended (HEA) (20 U.S.C. 1087mm(b)), requires the Secretary of Defense to provide the Secretary of Education with information to identify children whose parent or guardian was a member of the Armed Forces of the United States and died as a result of performing military service in Iraq or Afghanistan after September 11, 2001. Beginning with the 2009–2010 Award Year, a qualifying student may be eligible for a greater amount of Title IV, HEA program assistance. The qualifying student must have been age 24 or less at the time of the parent or guardian's death or, if older than 24, enrolled part-time or full-time in an institution of higher education at the time of the parent or guardian's death. Beginning July 1, 2010, students who are otherwise qualified children of deceased U.S. military who meet the requirements of section 420R of the HEA (20 U.S.C. 1070h) may also be eligible for higher amounts of Title IV, HEA program assistance.

To ensure that eligible students receive the maximum allowable amount of Title IV, HEA program assistance, the Department of Defense and the Department of Education created a computer matching program.

The purpose of this notice is to announce the continuation of the computer matching program and to provide certain required information concerning the computer matching program.

We provide this notice in accordance with the Privacy Act of 1974 (5 U.S.C. 552a), as amended by the Computer Matching and Privacy Protection Act of 1988 (Pub. L. 100–503) and the Computer Matching and Privacy Protection Amendments of 1990 (Pub. L. 101–508) (Privacy Act); the Office of Management and Budget (OMB) Guidelines on the Conduct of Matching Programs (54 FR 25818, June 19, 1989); and OMB Circular A–130:

1. Names of Participating Agencies

The Department of Education (recipient agency) and the Department of Defense (source agency).

2. Purpose of the Match

The purpose of this matching program is to ensure that the requirements of sections 420R and 473(b) of the HEA (20 U.S.C. 1070h and 20 U.S.C. 1087mm(b)) are fulfilled.

DoD is the lead contact agency for information related to benefits for military service dependents and, as such, provides these data to ED. ED (recipient agency) seeks access to the information contained in the DoD (source agency) Defense Manpower Data Center (DMDC) system and the Defense Enrollment Eligibility Reporting System (DEERS).

3. Authority for Conducting the Matching Program

Under sections 420R and 473(b) of the HEA (20 U.S.C. 1070h and 20 U.S.C. 1087mm(b)), ED must identify the children of military personnel who have died as a result of their military service in Iraq or Afghanistan after September 11, 2001, to determine if the child is eligible for increased amounts of Title IV, HEA program assistance.

DoD and ED have determined that using DoD data provided to ED for matching against ED's Federal Student Aid Application File (18–11–01) is the only practical method that the agencies can use to meet the statutory requirements of the HEA.

4. Categories of Records and Individuals Covered by the Match

DoD will submit for verification records from its DMDC and DEERS data bases to ED's Central Processing System files (Federal Student Aid Application File (18–11–01)), the Social Security number (SSN) and other identifying information for each qualifying dependent record. ED will use the SSN, date of birth, and the first two letters of an applicant's last name to match with the Federal Student Aid Application File.

The DoD DMDC and DEERS systems contain the names, SSNs, dates of birth, and other identifying information about dependents of service personnel who died as a result of performing their military service in Iraq or Afghanistan after September 11, 2001. This system of records also contains the date the servicemember died.

5. Effective Dates of the Matching Program

The matching program will be effective on the last of the following dates: (1) August 1, 2012; (2) 30 days after notice of the matching program has been published in the **Federal Register**; or (3) 40 days after a report concerning the matching program has been transmitted to OMB and transmitted to the Congress along with a copy of this agreement, unless OMB waives 10 days of this 40-day period for compelling reasons shown, in which case, 30 days after transmission of the report to OMB and Congress.

The matching program will continue for 18 months after the effective date of the computer matching agreement and may be extended for an additional 12 months thereafter, if the conditions

specified in 5 U.S.C. 552a(o)(2)(D) have been met.

6. Address for Receipt of Public Comments or Inquiries

Leroy Everett, Management and Program Analyst, U.S. Department of Education, Federal Student Aid, Union Center Plaza, Room 64A5, 830 First Street NE., Washington, DC 20202–5454. Telephone: (202) 377–3265. If you use a telecommunications device for the deaf (TDD) or text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) by contacting the contact person listed in the preceding paragraph.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Authority: 5 U.S.C. 552a; 21 U.S.C. 862(a)(1).

Dated: June 25, 2012.

James W. Runcie,

Chief Operating Officer, Federal Student Aid.

[FR Doc. 2012–15884 Filed 6–27–12; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Privacy Act of 1974; System of Records—Study of Promising Features of Teacher Preparation Programs

AGENCY: Institute of Education Sciences, Department of Education.

ACTION: Notice of a new system of records.

SUMMARY: In accordance with the Privacy Act of 1974, as amended (Privacy Act), the Department of Education (Department) publishes this notice of a new system of records entitled ''Study of Promising Features of Teacher Preparation Programs'' (18–13–29). The National Center for Education Evaluation and Regional Assistance at the Department's Institute of Education Sciences (IES) awarded a contract in September 2011 to Abt Associates to conduct a rigorous study of the effect on student learning of teachers who have experienced intensive clinical practice in their teacher preparation programs. The system of records will contain records on approximately 5,000 students and 360 teachers from 125 school districts and will be used to conduct the study.

DATES: In accordance with the requirements of the Privacy Act, the Department seeks comments on the new system of records described in this notice and in particular on the proposed routine uses for the new system of records. We must receive your comments on or before July 30, 2012.

The Department filed a report describing the new system of records covered by this notice with the Chair of the Senate Committee on Homeland Security and Governmental Affairs, the Chair of the House Committee on Oversight and Government Reform, and the Administrator of the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB) on June 25, 2012. This system of records will become effective at the later date of—(1) the expiration of the 40-day period for OMB review on August 6, 2012, unless OMB waives 10 days of the 40–day review period for compelling reasons shown by the Department, or (2) July 30, 2012, unless the system of records needs to be changed as a result of public comment or OMB review. The Department will publish any changes to the system of records or routine uses that result from public comment or OMB review.

ADDRESSES: Address all comments about the proposed routine uses to Dr. Audrey Pendleton, Associate Commissioner, Evaluation Division, National Center for Education Evaluation and Regional Assistance, Institute of Education Sciences, U.S. Department of Education, 555 New Jersey Avenue NW., Room 502D, Washington, DC 20208–0001. Telephone: (202) 208–7078. If you prefer to send your comments through the Internet, use the following address: *comments@ed.gov.*

You must include the term ''Study of Promising Features of Teacher Preparation Programs'' in the subject line of the electronic message.

During and after the comment period, you may inspect all public comments about this notice at the Department in Room 502D, 555 New Jersey Avenue NW., Washington, DC, between the hours of 8:00 a.m. and 4:30 p.m., Washington, DC time, Monday through Friday of each week except Federal holidays.

Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record

On request we will provide an appropriate accommodation or auxiliary aid such as a reader or print magnifier to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for this notice. If you want to schedule an appointment for this type of accommodation or aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT.**

FOR FURTHER INFORMATION CONTACT: Dr. Audrey Pendleton Associate Commissioner, Evaluation Division, National Center for Education Evaluation and Regional Assistance, Institute of Education Sciences, U.S. Department of Education, 555 New Jersey Avenue NW., Room 502D, Washington, DC 20208–0001. Telephone: (202) 208–7078. If you use a telecommunications device for the deaf (TDD) or a text telephone (TTY), call the Federal Relay Service (FRS), toll free, at 1–800–877–8339.

Individuals with disabilities can obtain this document in an accessible format (e.g., braille, large print, audiotape, or compact disc) on request to the contact person listed in this section.

SUPPLEMENTARY INFORMATION:

Introduction

The Privacy Act (5 U.S.C. 552a) requires the Department to publish in the **Federal Register** this notice of a new system of records (5 U.S.C. 552a(e)(4) and (e)(11)). The Department's regulations implementing the Privacy Act are contained in the Code of Federal Regulations (CFR) at 34 CFR part 5b.

The Privacy Act applies to information about individuals that contains individually identifying information and that is retrieved by a unique identifier associated with each individual, such as a name or social security number (SSN). The information about each individual is called a ''record,'' and the system, whether manual or computer-based, is called a ''system of records.''

Whenever the Department publishes a new system of records or makes a significant change to an established system of records, the Privacy Act requires it to publish a system of records

notice in the **Federal Register**. The Department is also required to submit reports to the Administrator of the Office of Information and Regulatory Affairs at OMB, the Chair of the Senate Committee on Homeland Security and Governmental Affairs, and the Chair of the House of Representatives Committee on Oversight and Government Reform. These reports are intended to permit an evaluation of the probable effect of the proposal on the privacy rights of individuals.

Electronic Access to This Document: The official version of this document is the document published in the **Federal Register**. Free Internet access to the official edition of the **Federal Register** and the Code of Federal Regulations is available via the Federal Digital System at: *www.gpo.gov/fdsys.* At this site you can view this document, as well as all other documents of this Department published in the **Federal Register**, in text or Adobe Portable Document Format (PDF). To use PDF you must have Adobe Acrobat Reader, which is available free at the site.

You may also access documents of the Department published in the **Federal Register** by using the article search feature at: *www.federalregister.gov.* Specifically, through the advanced search feature at this site, you can limit your search to documents published by the Department.

Dated: June 25, 2012.

John Q. Easton,

Director, Institute of Education Sciences.

For the reasons discussed in the preamble, the Director of the Institute of Education Sciences, U.S. Department of Education (Department) publishes a notice of a new system of records to read as follows:

System Number: 18–13–29

SYSTEM NAME:

Study of Promising Features of Teacher Preparation Programs.

SECURITY CLASSIFICATION:

None.

SYSTEM LOCATIONS:

(1) Evaluation Division, National Center for Education Evaluation and Regional Assistance, Institute of Education Sciences (IES), U.S. Department of Education, 555 New Jersey Avenue NW., Room 502D, Washington, DC 20208–0001.

(2) Abt Associates, 55 Wheeler Street, Cambridge, MA 02138–1168 (contractor).

(3) Chesapeake Research Associates, 708 Riverview Terrace, Annapolis, MD 21401–7119 (subcontractor).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

The system will contain records on approximately 5,000 students and 360 teachers from 125 school districts.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system of records will include information about the students and teachers who participate in the study. For students, this information will include, but will not necessarily be limited to, name; birth date; demographic information such as race, ethnicity, gender, and educational background; information on attendance and disciplinary incidences; and scores on reading and mathematics achievement tests. For teachers, this information will include, but will not necessarily be limited to, name and contact information; demographic information such as race and ethnicity; information on postsecondary institution attended and teaching experience; scores on postsecondary entrance exams; and will possibly include scores on teacher licensure exams.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The study is authorized under section 9601 of the Elementary and Secondary Education Act of 1965, as amended (ESEA) (20 U.S.C. 7941).

PURPOSE(S):

The information contained in the records maintained in this system will be used to conduct a rigorous study of the effect on student learning of teachers who have experienced intensive clinical practice within their teacher preparation programs.

The study will address the following central research question: What is the impact on students' reading and math achievement of novice elementary school teachers who experienced intensive clinical practice as part of their pre-service teacher preparation programs compared to students of novice elementary school teachers who *did not* have the same experience as part of their pre-service teacher preparation programs?

Secondary research questions for the impact study are: Among the teachers studied, what are the core features of teacher preparation programs? In particular, to what extent does preparation vary on the basis of selected dimensions of clinical practice? What is the impact on the classroom practices of novice elementary school teachers who experienced intensive clinical practice as part of their pre-service teacher preparation programs compared to novice elementary school teachers who *did not* have the same experience as part of their pre-service teacher preparation programs? What teacher preparation features (such as opportunities to teach throughout the preparation program, extent or nature of the clinical practice, and structured feedback during clinical practice) are associated with teacher effectiveness?

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

The Department may disclose information contained in a record in this system of records under the routine uses listed in this system of records without the consent of the individual if the disclosure is compatible with the purposes for which the record was collected. The Department may make these disclosures on a case-by-case basis or, if the Department has complied with the computer matching requirements of the Privacy Act of 1974, as amended (Privacy Act) (5 U.S.C. 552a), under a computer matching agreement. Any disclosure of individually identifiable information from a record in this system must also comply with the requirements of section 183 of the Education Sciences Reform Act (ESRA) (20 U.S.C. 9573), which provides confidentiality standards that apply to all collection, reporting, and publication of data by IES.

Contract Disclosure. If the Department contracts with an entity to perform any function that requires disclosing records in this system to the contractor's employees, the Department may disclose the records to those employees who have received the appropriate level of security clearance from the Department. Before entering into such a contract, the Department will require the contractor to establish and maintain the safeguards required under the Privacy Act (5 U.S.C. 552a(m)) with respect to the records in the system.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

The Department maintains records on CD–ROM, and the contractor (Abt Associates Inc.) and sub-contractor (Chesapeake Research Associates) maintain data for this system on computers and in hard copy.

RETRIEVABILITY:

Records in this system are indexed and retrieved by a unique number assigned to each individual that is cross-

referenced by the individual's name on a separate list.

SAFEGUARDS:

All physical access to the Department's site and to the sites of the Department's contractor and subcontractor, where this system of records is maintained, is controlled and monitored by security personnel. The computer system employed by the Department offers a high degree of resistance to tampering and circumvention. This security system limits data access to Department and contract staff on a need-to-know basis and controls individual users' ability to access and alter records within the system.

The contractor and subcontractor will establish a similar set of procedures at their sites to ensure confidentiality of data. The contractor and subcontractor are required to ensure that print data identifying individuals are in files physically separated from other research data and electronic files identifying individuals are separated from other electronic research data files. The contractor and subcontractor will maintain security of the complete set of all master data files and documentation. Access to individually identifying data will be strictly controlled. At each site, all print data will be kept in locked file cabinets during nonworking hours and work on hardcopy data will take place in a single room, except for data entry.

Physical security of electronic data will also be maintained. Security features that protect project data include: password-protected accounts that authorize users to use the contractor's system but to access only specific network directories and network software; user rights and directory and file attributes that limit those who can use particular directories and files and determine how they can use them; and additional security features that the network administrators will establish for projects as needed. The Department's, contractor's, and subcontractor's employees who ''maintain'' (collect, maintain, use, or disseminate) data in this system must comply with the requirements of the Privacy Act and the confidentiality standards in section 183 of the ESRA (20 U.S.C. 9573).

RETENTION AND DISPOSAL:

Records are maintained and disposed of in accordance with the Department's Records Disposition Schedules (GRS 23, Item 8).

SYSTEM MANAGER AND ADDRESS:

Associate Commissioner, Evaluation Division, National Center for Education Evaluation and Regional Assistance, Institute of Education Sciences, U.S. Department of Education, 555 New Jersey Avenue NW., Room 502D, Washington, DC 20208–0001.

NOTIFICATION PROCEDURE:

If you wish to determine whether a record exists regarding you in the system of records, contact the system manager at the address listed under System Manager and Address. Your request must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.5, including proof of identity.

RECORD ACCESS PROCEDURE:

If you wish to gain access to a record about you in this system of records, contact the system manager at the address listed under System Manager and Address. Your request must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.5, including proof of identity.

CONTESTING RECORD PROCEDURE:

If you wish to contest the content of a record regarding you in the system of records, contact the system manager at the address listed under System Manager and Address. Your request for access to a record must meet the requirements of the Department's Privacy Act regulations at 34 CFR 5b.7, including proof of identity, specification of the particular record you are seeking to have changed, and the written justification for making such a change.

RECORD SOURCE CATEGORIES:

This system will contain records on teachers, and students participating in a study of promising features of teacher preparation programs. Data will be obtained through human resource and student records maintained by the school districts, assessments administered to students, and surveys of teachers.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 2012–15886 Filed 6–27–12; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Notice of Commission Staff Attendance

The Federal Energy Regulatory Commission hereby gives notice that members of the Commission's staff may attend the following meetings and/or teleconferences related to the transmission planning activities of the Southwest Power Pool, Inc. (SPP):

Finance Committee Task Force on Order 1000

June 26, 2012, 10:00 a.m.–3 p.m. CDT

Regional Tariff Working Group

June 28, 2012, 8:30 a.m.–2 p.m. CDT

July 25, 2012, 1 p.m.–5 p.m. CDT

July 26, 2012, 8:30 a.m.–2 p.m. CDT

Seams FERC Order 1000 Task Force

June 29, 2012, 2:00 p.m.–4:00 p.m.

July 13, 2012, 10:00 a.m.–12:00 p.m. CDT

The above-referenced meetings will be held at:

AEP Offices, 1201 Elm Street, 8th Floor, Dallas, TX 75270.

The above-referenced meetings and teleconferences are open to stakeholders.

Further information may be found at *www.spp.org.*

The discussions at the meetings and teleconferences described above may address matters at issue in the following proceedings:

Docket No. ER09–35–001, Tallgrass Transmission, LLC.

Docket No. ER09–36–001, Prairie Wind Transmission, LLC.

Docket No. ER09–548–001, ITC Great Plains, LLC.

Docket No. ER11–4105–000, Southwest Power Pool, Inc.

Docket No. EL11–34–001, Midwest Independent Transmission System Operator, Inc.

Docket No. ER12–1179–000, Southwest Power Pool, Inc.

Docket No. ER12–1415–000, Southwest Power Pool, Inc.

Docket No. ER12–1460–000, Southwest Power Pool, Inc.

Docket No. ER12–1610–000, Southwest Power Pool, Inc.

Docket No. ER12–1772–000, Southwest Power Pool, Inc.

For more information, contact Luciano Lima, Office of Energy Markets Regulation, Federal Energy Regulatory Commission at (202) 502–6210 or *luciano.lima@ferc.gov.*

Dated: June 21, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–15835 Filed 6–27–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PF12–2–000]

Northwest Pipeline, GP; Notice of Intent To Prepare an Environmental Assessment for the Proposed Kalama Lateral Pipeline Project, Request for Comments on Environmental Issues, and Notice of Public Scoping Meeting

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an Environmental Assessment (EA) that will discuss the environmental impacts of the Kalama Lateral Pipeline Project, which would involve construction and operation of a new natural gas pipeline and associated facilities by Northwest Pipeline, GP (Northwest) in Cowlitz County, Washington. The Commission will use this EA in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the project. Your input will help the Commission staff determine what issues need to be evaluated in the EA. Please note that the scoping period will close on July 23, 2012.

You may submit comments in written form or verbally. Further details on how to submit written comments are in the Public Participation section of this notice. In lieu of or in addition to sending written comments, the Commission invites you to attend the public scoping meeting scheduled as follows:

FERC Public Scoping Meeting, Kalama Lateral Pipeline Project, Tuesday, July 10, 2012, 7:00 p.m. PST, Red Lion Hotel and Conference Center, 510 Kelso Drive, Kelso, WA 98626.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives should notify their constituents of this planned project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, a pipeline company representative may contact you about the acquisition of an easement to construct, operate, and maintain the planned facilities. The company would seek to negotiate a mutually acceptable agreement. However, if the Commission approves the project, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings where compensation would be determined in accordance with state law.

A fact sheet prepared by the FERC titled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' was attached to the project notice Northwest provided to landowners. This fact sheet addresses a number of typically-asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is also available for viewing on the FERC Web site (*www.ferc.gov*).

Summary of the Planned Project

Northwest plans to construct and operate approximately 3 miles of 16-inch-diameter natural gas pipeline to provide 62,888 Dekatherms per day (Dth/d) of natural gas to a planned 346 megawatt (MW) natural gas-fired electricity generating power plant (the Kalama Energy Center) to be located within the north industrial area of the Port of Kalama, in Cowlitz County, Washington. The environmental impact of the proposed Kalama Energy Center would be evaluated as part of the State Environmental Policy Act process for the state of Washington.

The Kalama Lateral Pipeline Project would transport natural gas to the Kalama Energy Center from Northwest's existing Ignacio/Sumas mainline in Cowlitz County, Washington. The project would require new appurtenances to tie the new pipeline into the existing mainline including a new tap and valve. Pig launcher facilities [1] would be installed near the planned interconnection with the mainline and at a new meter station facility constructed within the Kalama Energy Center. The new meter station facility would include standard appurtenances, piping, and buildings within an approximately 150 foot by 200 foot fenced area.

The general location of the planned facilities is shown in Appendix 1.[2]

Land Requirements for Construction

Construction of the pipeline and aboveground facilities would disturb approximately 183.4 acres of land. Following construction, about 33.9 acres would be maintained within permanent easements for ongoing operation of the pipeline, aboveground facilities, and permanent access roads. The remaining acreage disturbed during construction would be restored and allowed to revert to former uses. These acreage estimates are based on Northwest's general intention to construct its pipeline using a 100-foot-wide right-of-way and to retain a 50-foot-wide permanent right-of-way.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us [3] to discover and address concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to address in the EA. We will consider all filed comments during the preparation of the EA.

In the EA we will discuss impacts that could occur as a result of the construction and operation of the planned project under these general headings:

- Geology and soils;
- Public safety;
- Water resources, fisheries, and wetlands;
- Cultural resources;
- Vegetation and wildlife;
- Air quality and noise;
- Endangered and threatened species; and
- Land use.

We will also evaluate reasonable alternatives to the planned project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas. We will present our independent analysis of the issues in the EA. The EA will be available in the public record through eLibrary. Depending on the comments received during the scoping process, we may also publish and distribute the EA to the public for an allotted comment period. We will

[1] A ''pig'' is a tool that is inserted into and moves through the pipeline, and is used for cleaning the pipeline, internal inspections, or other purposes.

[2] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies of appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary'' or from the Commission's Public Reference Room, 888 First Street NE., Washington, DC 20426, or call 202–502–8371. For instructions on connecting to eLibrary, refer to page 5 of this notice.

[3] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the Commission's Office of Energy Projects (OEP).

consider all comments on the EA before we make our recommendations to the Commission. To ensure we have the opportunity to consider your comments, please carefully follow the instructions in the Public Participation section beginning on page 5 of this notice.

With this notice, we are asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues related to this project to formally cooperate with us in the preparation of the EA. Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

Consultations Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for Section 106 of the National Historic Preservation Act, we are using this notice to initiate consultation with the Washington State Historic Preservation Office (SHPO), and to solicit the SHPO's views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[4] We will define the project-specific Area of Potential Effects (APE) in consultation with the SHPO as the project develops. On natural gas facility projects, the APE at a minimum encompasses all areas subject to ground disturbance (examples include construction right-of-way, contractor/pipe storage yards, and access roads). Our EA for this project will document our findings on the impacts on historic properties and summarize the status of consultations under Section 106.

Currently Identified Environmental Issues

We have already identified several issues that we think deserve attention based on a preliminary review of the proposed facilities, the preliminary information provided by Northwest, our attendance at Northwest's open house meetings held in January 2012, site visits to the project area, and information provided by potentially affected landowners.

These issues identified include:

- Geologic hazards;
- Effect on nearby residential structures;
- Public safety;
- Waterbody and wetland crossings; and
- Alternative routing considerations.

This preliminary list of issues may be changed based on your comments and our analysis.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please send your comments so that they will be received in Washington, DC on or before July 23, 2012.

For your convenience, there are three methods which you can use to submit your comments to the Commission. In all instances please reference the project docket number (PF12–2–000) with your submission. The Commission encourages electronic filing of comments and has expert eFiling staff available to assist you at (202) 502–8258 or *efiling@ferc.gov*.

(1) You can file your comments electronically by using the eComment feature, which is located on the Commission's Web site at *www.ferc.gov* under the link to Documents and Filings. This is an easy method for interested persons to submit brief, text-only comments on a project;

(2) You can file your comments electronically by using the eFiling feature which is located on the Commission's Web site at *www.ferc.gov* under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' You will be asked to select the type of filing you are making. If you are filing a comment on a particular project, please select ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the following address:

Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

Environmental Mailing List

The environmental mailing list includes federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project. We will update the environmental mailing list as the analysis proceeds to ensure that we send the information related to this environmental review to all individuals, organizations, and government entities interested in and/or potentially affected by the planned project.

When the EA is published for distribution, copies will be sent to the environmental mailing list for public review and comment. If you would prefer to receive a paper copy of the document instead of the CD version or would like to remove your name from the mailing list, please return the attached Information Request (Appendix 2).

Becoming an Intervenor

Once Northwest files its application with the Commission, you may want to become an ''intervenor'' which is an official party to the Commission's proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to intervene. Instructions for becoming an intervenor are in the User's Guide under the ''e-filing'' link on the Commission's Web site. Please note that the Commission will not accept requests for intervenor status at this time. You must wait until the Commission receives a formal application for the project.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site at *www.ferc.gov* using the ''eLibrary'' link. Click on the eLibrary link, click on ''General Search'' and enter the docket number, excluding the last three digits in the Docket Number field (i.e., PF12–2). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The

[4] The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Historic properties are defined in those regulations as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register for Historic Places.

eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/esubscribenow.htm.*

Finally, public meetings or site visits will be posted on the Commission's calendar located at *www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

Dated: June 22, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–15837 Filed 6–27–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP12–461–000]

Eastern Shore Natural Gas Company; Notice of Intent To Prepare an Environmental Assessment for the Proposed 2012 Greenspring Expansion Project and Request for Comments on Environmental Issues

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an Environmental Assessment (EA) that will discuss the environmental impacts of the 2012 Greenspring Expansion Project involving construction and operation of facilities by Eastern Shore Natural Gas Company (ESNG) in New Castle and Kent Counties, Delaware. The Commission will use this EA in its decision-making process to determine whether the project is in the public convenience and necessity.

This notice announces the opening of the scoping process the Commission will use to gather input from the public and interested agencies on the project. Your input will help the Commission staff determine what issues they need to evaluate in the EA. Please note that the scoping period will close on July 23, 2012.

You may submit comments in written form or verbally. Further details on how to submit written comments are in the Public Participation section of this notice.

This notice is being sent to the Commission's current environmental mailing list for this project. State and local government representatives should notify their constituents of this proposed project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, you may be contacted by a pipeline company representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings where compensation would be determined in accordance with state law.

ESNG provided landowners with a fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' along with project notice. This fact sheet addresses a number of typically-asked questions, including the use of eminent domain and how to participate in the Commission's proceedings. It is also available for viewing on the FERC Web site (*www.ferc.gov*).

Summary of the Proposed Project

ESNG proposes to construct and operate approximately 11.0 miles of 16-inch-diameter natural gas pipeline in New Castle and Kent Counties, Delaware. The 2012 Greenspring Expansion Project would provide about 15,040 dekatherms per day (dt/d) of natural gas to the markets in the Delmarva Peninsula. According to ESNG, its project would provide.

The Project would consist of the following facilities:

- Approximately 11.0 miles of 16-inch-diameter natural gas pipeline looping [1] of ESNG's existing mainline facilities from Blackbird Greenspring Road, north of Smyrna, Delaware, southward almost to Dover, Delaware;
- Approximately 0.1 mile of 10-inch-diameter natural gas pipeline;
- Two mainline valve assemblies; and
- One pressure regulating station in Kent County, Delaware.

The general location of the project facilities is shown in appendix 1.[2]

Land Requirements for Construction

Construction of the proposed facilities would disturb about 131.54 acres of land for the aboveground facilities and the pipeline. Following construction, about 27.45 acres would be maintained for permanent operation of the project's facilities; the remaining acreage would be restored and allowed to revert to former uses. About 98.1 percent of the proposed pipeline route would parallel existing pipeline, railroad, or road rights-of-way. Construction would utilize a 75-foot-side construction easement. Locations for contractor and/or pipe yards have yet to be identified.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us [3] to discover and address concerns the public may have about proposals. This process is referred to as ''scoping.'' The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this notice, the Commission requests public comments on the scope of the issues to address in the EA. We will consider all filed comments during the preparation of the EA.

In the EA we will discuss impacts that could occur as a result of the construction and operation of the proposed project under these general headings:

- Geology and soils;
- Land use;
- Water resources, fisheries, and wetlands;
- Cultural resources;
- Vegetation and wildlife;
- Air quality and noise;
- Endangered and threatened species; and
- Public safety.

We will also evaluate reasonable alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas.

The EA will present our independent analysis of the issues. The EA will be available in the public record through eLibrary. Depending on the comments received during the scoping process, we

[1] A pipeline loop is a segment of pipe constructed parallel to an existing pipeline to increase capacity.

[2] The appendices referenced in this notice will not appear in the **Federal Register**. Copies of appendices were sent to all those receiving this notice in the mail and are available at *www.ferc.gov* using the link called ''eLibrary'' or from the Commission's Public Reference Room, 888 First Street NE., Washington, DC 20426, or call (202) 502–8371. For instructions on connecting to eLibrary, refer to the last page of this notice.

[3] ''We,'' ''us,'' and ''our'' refer to the environmental staff of the Commission's Office of Energy Projects.

may also publish and distribute the EA to the public for an allotted comment period. We will consider all comments on the EA before making our recommendations to the Commission. To ensure we have the opportunity to consider and address your comments, please carefully follow the instructions in the Public Participation section of this notice below.

With this notice, we are asking agencies with jurisdiction by law and/or special expertise with respect to the environmental issues of this project to formally cooperate with us in the preparation of the EA.[4] Agencies that would like to request cooperating agency status should follow the instructions for filing comments provided under the Public Participation section of this notice.

Consultations Under Section 106 of the National Historic Preservation Act

In accordance with the Advisory Council on Historic Preservation's implementing regulations for section 106 of the National Historic Preservation Act, we are using this notice to initiate consultation with applicable State Historic Preservation Office (SHPO), and to solicit their views and those of other government agencies, interested Indian tribes, and the public on the project's potential effects on historic properties.[5] We will define the project-specific Area of Potential Effects (APE) in consultation with the SHPO as the project develops. On natural gas facility projects, the APE at a minimum encompasses all areas subject to ground disturbance (examples include construction right-of-way, contractor/pipe storage yards, compressor stations, and access roads). Our EA for this project will document our findings on the impacts on historic properties and summarize the status of consultations under section 106.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. Your comments should focus on the potential environmental effects, reasonable alternatives, and measures to avoid or lessen environmental impacts. The more specific your comments, the more useful they will be. To ensure that your comments are timely and properly recorded, please send your comments so that the Commission receives them in Washington, DC on or before July 23, 2012.

For your convenience, there are three methods which you can use to submit your comments to the Commission. In all instances please reference the project docket number (CP12–461–000) with your submission. The Commission encourages electronic filing of comments and has expert staff available to assist you at (202) 502–8258 or *efiling@ferc.gov*.

(1) You can file your comments electronically using the eComment feature which is located on the Commission's Web site at *www.ferc.gov* under the link to Documents and Filings. This is an easy method for interested persons to submit brief, text-only comments on a project;

(2) You can file your comments electronically by using the eFiling feature on the Commission's Web site at *www.ferc.gov* under the link to Documents and Filings. With eFiling, you can provide comments in a variety of formats by attaching them as a file with your submission. New eFiling users must first create an account by clicking on ''eRegister.'' You must select the type of filing you are making. If you are filing a comment on a particular project, please select ''Comment on a Filing''; or

(3) You can file a paper copy of your comments by mailing them to the following address:

Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Room 1A, Washington, DC 20426.

Environmental Mailing List

The environmental mailing list includes: Federal, state, and local government representatives and agencies; elected officials; environmental and public interest groups; Native American Tribes; other interested parties; and local libraries and newspapers. This list also includes all affected landowners (as defined in the Commission's regulations) who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within certain distances of aboveground facilities, and anyone who submits comments on the project. We will update the environmental mailing list as the analysis proceeds to ensure that we send the information related to this environmental review to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project.

If we publish and distribute the EA, copies will be sent to the environmental mailing list for public review and comment. If you would prefer to receive a paper copy of the document instead of the CD version or would like to remove your name from the mailing list, please return the attached Information Request (appendix 2).

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an ''intervenor'' which is an official party to the Commission's proceeding. Intervenors play a more formal role in the process and are able to file briefs, appear at hearings, and be heard by the courts if they choose to appeal the Commission's final ruling. An intervenor formally participates in the proceeding by filing a request to intervene. Instructions for becoming an intervenor are in the User's Guide under the ''e-filing'' link on the Commission's Web site.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs, at (866) 208–FERC, or on the FERC Web site at *www.ferc.gov* using the ''eLibrary'' link. Click on the eLibrary link, click on ''General Search'' and enter the docket number, excluding the last three digits in the Docket Number field (i.e., CP12–461). Be sure you have selected an appropriate date range. For assistance, please contact FERC Online Support at *FercOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659. The eLibrary link also provides access to the texts of formal documents issued by the Commission, such as orders, notices, and rulemakings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries, and direct links to the documents. Go to *www.ferc.gov/esubscribenow.htm.*

Finally, public meetings or site visits will be posted on the Commission's calendar located at *www.ferc.gov/EventCalendar/EventsList.aspx* along with other related information.

[4] The Council on Environmental Quality regulations addressing cooperating agency responsibilities are at Title 40, Code of Federal Regulations, § 1501.6.

[5] The Advisory Council on Historic Preservation's regulations are at Title 36, Code of Federal Regulations, Part 800. Those regulations define historic properties as any prehistoric or historic district, site, building, structure, or object included in or eligible for inclusion in the National Register of Historic Places.

Dated: June 22, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–15833 Filed 6–27–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2055–087]

Idaho Power Company; Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Land Management Plan Update.

b. *Project No.:* 2055–087.

c. *Date Filed:* March 29, 2012.

d. *Applicant:* Idaho Power Company.

e. *Name of Project:* C.J. Strike Hydroelectric Project.

f. *Location:* The project is located in south-western Idaho on the Snake River from river mile 525 near Hammett to river mile 493 near Grand View in Owyhee and Elmore counties.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* L. Lewis Wardle, Licensing Program Coordinator, Idaho Power, P.O. Box 70, 1221 W. Idaho Street, Boise, ID 83702, (208) 388–2964, *wardle@idahopower.com.*

i. *FERC Contact:* Dr. Mark Ivy, (202) 502–6156, *mark.ivy@ferc.gov.*

j. *Deadline for filing comments, motions to intervene, and protests:* July 23, 2012.

All documents may be filed electronically via the Internet. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov/docs-filing/efiling.asp.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and seven copies should be mailed to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. Please include the project number (P–2055–087) on any comments, motions, or recommendations filed.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of the Application:* Idaho Power Company, licensee of the C.J. Strike Hydroelectric Project, has filed a Land Management Plan (LMP) update for the project. The LMP is a comprehensive plan to manage project lands including control of noxious weeds, and protection and enhancement of riparian and shoreline habitats in a manner that is consistent with license requirements and project purposes, and to address the needs and interests of stakeholders.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits (P–2055) in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions To Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filing must (1) Bear in all capital letters the title ''COMMENTS,'' ''PROTEST,'' or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. All comments, motions to intervene, or protests should relate to project works which are the subject of the amendment application. Agencies may obtain copies of the application directly from the applicant. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Dated: June 21, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–15829 Filed 6–27–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2061–088]

Idaho Power Company; Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Land Management Plan Update.

b. *Project No.:* 2061–088.

c. *Date Filed:* March 29, 2012.

d. *Applicant:* Idaho Power Company.

e. *Name of Project:* Lower Salmon Falls Hydroelectric Project.

f. *Location:* The project is located in south-central Idaho on the Snake River in Gooding and Twin Falls Counties.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* L. Lewis Wardle, Licensing Program Coordinator,

Idaho Power, PO Box 70, 1221 W Idaho Street, Boise, ID 83702, (208) 388–2964, *lwardle@idahopower.com.*

i. *FERC Contact:* Dr. Mark Ivy, (202) 502–6156, *mark.ivy@ferc.gov.*

j. *Deadline for filing comments, motions to intervene, and protests:* July 23, 2012.

All documents may be filed electronically via the Internet. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov/docs-filing/efiling.asp.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and seven copies should be mailed to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. Please include the project number (P–2061–088) on any comments, motions, or recommendations filed.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of the Application:* Idaho Power Company, licensee of the Lower Salmon Falls Hydroelectric Project, has filed a Land Management Plan (LMP) update for the project. The LMP is a comprehensive plan to manage project lands including control of noxious weeds, and protection and enhancement of riparian and shoreline habitats in a manner that is consistent with license requirements and project purposes, and to address the needs and interests of stakeholders.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits (P–2061) in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions to Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. All comments, motions to intervene, or protests should relate to project works which are the subject of the amendment application. Agencies may obtain copies of the application directly from the applicant. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Dated: June 21, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–15830 Filed 6–27–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 1975–109]

Idaho Power Company; Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Land Management Plan Update.

b. *Project No.:* 1975–109.

c. *Date Filed:* March 29, 2012.

d. *Applicant:* Idaho Power Company.

e. *Name of Project:* Bliss Hydroelectric Project.

f. *Location:* The project is located in south-central Idaho on the Snake River in Gooding, Twin Falls, and Elmore Counties.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* L. Lewis Wardle, Licensing Program Coordinator, Idaho Power, P.O. Box 70, 1221 W. Idaho Street, Boise, ID 83702, (208) 388–2964, *lwardle@idahopower.com.*

i. *FERC Contact:* Dr. Mark Ivy, (202) 502–6156, *mark.ivy@ferc.gov.*

j. *Deadline for filing comments, motions to intervene, and protests:* July 23, 2012.

All documents may be filed electronically via the Internet. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov/docs-filing/efiling.asp.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and seven copies should be mailed to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. Please include the project number (P–1975–109) on any

comments, motions, or recommendations filed.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of the Application:* Idaho Power Company, licensee of the Bliss Hydroelectric Project, has filed a Land Management Plan (LMP) update for the project. The LMP is a comprehensive plan to manage project lands including control of noxious weeds, and protection and enhancement of riparian and shoreline habitats in a manner that is consistent with license requirements and project purposes, and to address the needs and interests of stakeholders.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits (P–1975) in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions To Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS,'' ''PROTEST,'' or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. All comments, motions to intervene, or protests should relate to project works which are the subject of the amendment application. Agencies may obtain copies of the application directly from the applicant. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Dated: June 21, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–15832 Filed 6–27–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2777–115]

Idaho Power Company; Notice of Application for Amendment of License And Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Land Management Plan Update.

b. *Project No.:* 2777–115.

c. *Date Filed:* March 29, 2012.

d. *Applicant:* Idaho Power Company.

e. *Name of Project:* Upper Salmon Falls Hydroelectric Project.

f. *Location:* The project is located in south-central Idaho on the Snake River in Gooding and Twin Falls Counties.

g. *Filed Pursuant to:* Federal Power Act, 16 USC 791a–825r.

h. *Applicant Contact:* L. Lewis Wardle, Licensing Program Coordinator, Idaho Power, PO Box 70, 1221 W Idaho Street, Boise, ID 83702, (208) 388–2964, *lwardle@idahopower.com.*

i. *FERC Contact:* Dr. Mark Ivy, (202) 502–6156, *mark.ivy@ferc.gov.*

j. Deadline for filing comments, motions to intervene, and protests: July 23, 2012.

All documents may be filed electronically via the Internet. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov/docs-filing/efiling.asp.* For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and seven copies should be mailed to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. Please include the project number (P–2777–115) on any comments, motions, or recommendations filed.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of the Application:* Idaho Power Company, licensee of the Upper Salmon Falls Hydroelectric Project, has filed a Land Management Plan (LMP) update for the project. The LMP is a comprehensive plan to manage project lands including control of noxious weeds, and protection and enhancement of riparian and shoreline habitats in a manner that is consistent with license requirements and project purposes, and to address the needs and interests of stakeholders.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the

''eLibrary'' link. Enter the docket number excluding the last three digits (P–2777) in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions To Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. All comments, motions to intervene, or protests should relate to project works which are the subject of the amendment application. Agencies may obtain copies of the application directly from the applicant. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Dated: June 21, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–15831 Filed 6–27–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 2778–062]

Idaho Power Company; Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Land Management Plan Update.

b. *Project No.:* 2778–062.

c. *Date Filed:* March 29, 2012.

d. *Applicant:* Idaho Power Company

e. *Name of Project:* Shoshone Falls Hydroelectric Project.

f. *Location:* The project is located in south-central Idaho on the Snake River from river mile 612.5 to river mile 617.1 in Twin Falls and Jerome counties.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a—825r.

h. *Applicant Contact:* L. Lewis Wardle, Licensing Program Coordinator, Idaho Power, PO Box 70, 1221 W Idaho Street, Boise, ID 83702, (208) 388–2964, *lwardle@idahopower.com*.

i. *FERC Contact:* Dr. Mark Ivy, (202) 502–6156, *mark.ivy@ferc.gov*.

j. *Deadline for filing comments, motions to intervene, and protests:* July 23, 2012.

All documents may be filed electronically via the Internet. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov/docs-filing/efiling.asp*. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. If unable to be filed electronically, documents may be paper-filed. To paper-file, an original and seven copies should be mailed to: Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426. Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp*. You must include your name and contact information at the end of your comments. Please include the project number (P–2778–062) on any comments, motions, or recommendations filed.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency.

k. *Description of the Application:* Idaho Power Company, licensee of the Shoshone Falls Hydroelectric Project, has filed a Land Management Plan (LMP) update for the project. The LMP is a comprehensive plan to manage project lands including control of noxious weeds, and protection and enhancement of riparian and shoreline habitats in a manner that is consistent with license requirements and project purposes, and to address the needs and interests of stakeholders.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits (P–2778) in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/esubscription.asp* to be notified via email of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or email *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions To Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments,

protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. *Filing and Service of Responsive Documents:* Any filing must (1) bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'' as applicable; (2) set forth in the heading the name of the applicant and the project number of the application to which the filing responds; (3) furnish the name, address, and telephone number of the person protesting or intervening; and (4) otherwise comply with the requirements of 18 CFR 385.2001 through 385.2005. All comments, motions to intervene, or protests must set forth their evidentiary basis. All comments, motions to intervene, or protests should relate to project works which are the subject of the amendment application. Agencies may obtain copies of the application directly from the applicant. Any filing made by an intervenor must be accompanied by proof of service on all persons listed in the service list prepared by the Commission in this proceeding, in accordance with 18 CFR 385.2010.

Dated: June 21, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–15828 Filed 6–27–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 14383–000]

Whitewater Green Energy, LLC; Notice of Preliminary Permit Application Accepted for Filing and Soliciting Comments, Motions To Intervene, and Competing Applications

On April 11, 2012, Whitewater Green Energy, LLC, filed an application for a preliminary permit, pursuant to section 4(f) of the Federal Power Act (FPA), proposing to study the feasibility of the Whitewater Creek Hydroelectric Project (Whitewater Creek Project or project) to be located on Whitewater and Russell Creeks near Idanha in Marion and Linn Counties, Oregon. The sole purpose of a preliminary permit, if issued, is to grant the permit holder priority to file a license application during the permit term. A preliminary permit does not authorize the permit holder to perform any land-disturbing activities or otherwise enter upon lands or waters owned by others without the owners' express permission.

The proposed project would consist of the following: (1) A 9.5-foot-high, 40-foot-wide weir on Russell Creek; (2) a 19,500-foot-long, 60-inch-diameter steel penstock; (3) a powerhouse containing one pelton turbine rated at 11 megawatts; (4) a 160-foot-long, 72-inch-diameter tailrace discharging into Whitewater Creek; (5) an underground 2.25-mile-long, 12,000 kilovolt-amperes transmission line extending from the project to an outside transmission line (the point of interconnection); (6) an access road along side of the penstock; and (7) appurtenant facilities. The estimated annual generation of the Whitewater Creek Project would be 95.04 gigawatt-hours.

Applicant Contact: Mr. David Harmon, Whitewater Green Energy, LLC, 601 7th Avenue, P.O. Box 44, Sweet Home, Oregon 97386; phone: (541) 405–5236.

FERC Contact: Jennifer Harper; phone: (202) 502–6136.

Deadline for filing comments, motions to intervene, competing applications (without notices of intent), or notices of intent to file competing applications: 60 days from the issuance of this notice. Competing applications and notices of intent must meet the requirements of 18 CFR § 4.36. Comments, motions to intervene, notices of intent, and competing applications may be filed electronically via the Internet. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov/docs-filing/efiling.asp.* Commenters can submit brief comments up to 6,000 characters, without prior registration, using the eComment system at *http://www.ferc.gov/docs-filing/ecomment.asp.* You must include your name and contact information at the end of your comments. For assistance, please contact FERC Online Support at *FERCOnlineSupport@ferc.gov* or toll free at 1–866–208–3676, or for TTY, (202) 502–8659. Although the Commission strongly encourages electronic filing, documents may also be paper-filed. To paper-file, mail an original and seven copies to: Kimberly D. Bose, Secretary, Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

More information about this project, including a copy of the application, can be viewed or printed on the ''eLibrary'' link of Commission's Web site at *http://www.ferc.gov/docs-filing/elibrary.asp.* Enter the docket number (P–14383) in the docket number field to access the document. For assistance, contact FERC Online Support.

Dated: June 22, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–15836 Filed 6–27–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP12–475–000]

Southern Star Central Gas Pipeline, Inc.; Notice of Request Under Blanket Authorization

Take notice that on June 4, 2012, Southern Star Central Gas Pipeline, Inc. (Southern Star), 4700 Highway 56, Owensboro, Kentucky 42301, filed in Docket No. CP12–475–000 a prior notice request pursuant to sections 157.205, 157.208 and 157.213 of the Federal Energy Regulatory Commission's (Commission) regulations under the Natural Gas Act as amended and Southern Star's blanket certificate issued in Docket No. CP82–479–000 [1] for authorization to drill two new horizontal injection/withdrawal gas storage wells (I/W wells) in its existing Colony Gas Storage field located in Anderson and Allen Counties, Kansas, all as more fully set forth in the application which is on file with the Commission and open to public inspection. The filing may also be viewed on the web at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. For assistance, contact FERC at *FERCOnlineSupport@ferc.gov* or call toll-free, (866) 208–3676 or TTY, (202) 502–8659.

Specifically, Southern Star proposes to drill two new horizontal I/W wells in order to replace up to eighteen (18) vertical I/W wells located within the City of Colony, Kansas in close proximity to residential homes. Southern Star will file a separate abandonment application to plug and abandon up to 18 vertical I/W wells after confirmation that the designed operational capabilities of the two new horizontal I/W wells will allow the field to maintain its current operational capacities. Southern Star states the proposed project will not result in any changes to the current geological interpretation of the storage reservoir, the certificated field boundary, or the operations parameters of the Colony Storage field. The cost of the project is

[1] 20 FERC ¶ 62,592

estimated at $3,750,000. Southern Star also proposes to install and operate two new 6-inch storage lateral pipelines connecting the two new I/W wells to the storage gathering system.

Any questions concerning this prior notice request may be directed to David N. Roberts, Staff Analyst, Regulatory Compliance, Southern Star Central Gas Pipeline, Inc. 4700 Highway 56, Owensboro, KY 42301, or call (270) 852–4654.

Any person or the Commission's staff may, within 60 days after issuance of the instant notice by the Commission, file pursuant to Rule 214 of the Commission's Procedural Rules (18 CFR 385.214) a motion to intervene or notice of intervention and pursuant to Section 157.205 of the regulations under the NGA (18 CFR 157.205), a protest to the request. If no protest is filed within the time allowed therefore, the proposed activity shall be deemed to be authorized effective the day after the time allowed for filing a protest. If a protest is filed and not withdrawn within 30 days after the allowed time for filing a protest, the instant request shall be treated as an application for authorization pursuant to Section 7 of the NGA.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental commentors will be placed on the Commission's environmental mailing list, will receive copies of the environmental documents, and will be notified of meetings associated with the Commission's environmental review process. Environmental commentors will not be required to serve copies of filed documents on all other parties. However, the non-party commentors will not receive copies of all documents filed by other parties or issued by the Commission (except for the mailing of environmental documents issued by the Commission) and will not have the right to seek court review of the Commission's final order.

The Commission strongly encourages electronic filings of comments, protests, and interventions via the internet in lieu of paper. See 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site (*www.ferc.gov*) under the ''e-Filing'' link.

Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street NE., Washington, DC 20426.

Dated: June 21, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–15834 Filed 6–27–12; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. TS11–1–000]

NSTAR Electric Company; Notice of Request for Waiver or Exemption

Take notice that on October 1, 2010, NSTAR Electric Company filed a petition requesting full waiver or exemption from the Standards of Conduct requirements in accordance with the Commission's regulation in 18 CFR 358.1(d)(2010).

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5:00 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5:00 p.m. Eastern Time on July 12, 2012.

Dated: June 21, 2012.

Kimberly D. Bose,

Secretary.

[FR Doc. 2012–15827 Filed 6–27–12; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2011–0256; FRL–9519–2]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Emission Guidelines for Existing Other Solid Waste Incineration Units (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before July 30, 2012.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2011–0256, to: (1) EPA online using *www.regulations.gov* (our preferred method), or by email to: *docket.oeca@epa.gov,* or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, Mail Code 28221T, 1200 Pennsylvania Avenue NW., Washington, DC 20460; and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Learia Williams, Monitoring,

Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; email address: *williams.learia@epa.gov*.

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On May 9, 2011 (76 *FR* 26900), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to both EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2011–0256, which is available for public viewing online at *http://www.regulations.gov,* or in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1752.

Use EPA's electronic docket and comment system at *http://www.regulations.gov* to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov.*

Title: Emission Guidelines for Existing Other Solid Waste Incineration Units (Renewal).

ICR Numbers: EPA ICR Number 2164.04, OMB Control Number 2060–0562.

ICR Status: This ICR is scheduled to expire on July 31, 2012. Under OMB regulations, the Agency may continue to either conduct or sponsor the collection of information while this submission is pending at OMB.

Abstract: The emission guidelines address existing OSWI units that commenced construction before the proposal of the emission guidelines (December 9, 2004). The emission guidelines do not apply directly to existing OSWI unit owners and operators.

The emission guidelines can be considered a model regulation that a State agency can use in developing plans to implement the emission guidelines. If a State does not develop, adopt, and submit an approvable State plan, the Federal government must develop a plan to implement the emission guidelines. This ICR includes the burden for an affected entity, even if it is ultimately regulated under either a State or Federal plan.

All reports are sent to the delegated state or local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA regional office. This information is being collected to assure compliance with 40 CFR part 60, subpart FFFF, as authorized in sections 112 and 114(a) of the Clean Air Act. The required information consists of emissions data and other information that have been determined to be private.

An Agency may not conduct nor sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number. The OMB Control Number for EPA regulations listed in 40 CFR part 9 and 48 CFR chapter 15, are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 236 hours per response. ''Burden'' means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information either to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners or operators of other existing solid waste incinerators.

Estimated Number of Respondents: 99.

Frequency of Response: Initially, annually, and semiannually.

Estimated Total Annual Hour Burden: 70,132.

Estimated Total Annual Cost: $7,215,028, which includes $6,720,028 in labor costs, no capital/startup costs, and $495,000 in operation and maintenance (O&M) costs.

Changes in the Estimates: There is a decrease in the total estimated burden for both the respondents and the Agency from the most recently approved ICR due to a decrease in the number of sources. At the time of rule promulgation, EPA estimated that 248 respondents were subject to the standard. However, many facilities have shut down or ceased operation since 2005. In recent years in support of potential OSWI regulatory development, the Agency consulted with internal data experts and conducted data and permits searches to inventory the number of existing OSWI units. The data collection activities in 2010 suggest that only 99 VSMWC and IWI sources are subject to the standard. This represents an approximately 60 percent decrease in the respondent universe since 2005.

The decrease in the respondent universe also results in significant reduction of the overall O&M costs to the respondents.

Additionally, this ICR corrects a mathematical error in the previous ICR's estimate for the respondents' recordkeeping burden.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2012–15866 Filed 6–27–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OAR–2003–0085; FRL 9518–9]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NESHAP for Radionuclides (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) (44 U.S.C. 3501 *et seq.*), this document

announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR, which is abstracted below, describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before July 30, 2012.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–OAR–2003–0085, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *a-and-r-Docket@epa.gov* or by mail to: EPA Docket Center, Environmental Protection Agency, Air and Radiation Docket, Mail Code 28221T, 1200 Pennsylvania Avenue NW., Washington, DC 20460, and (2) OMB by mail to: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Philip Egidi, Radiation Protection Division, Office of Radiation and Indoor Air, Mail Code 6608J, Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: (202) 343–9186; fax number: (202) 343–2304; email address: *egidi.philip@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On January 24, 2012 (77 FR 3472), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–OAR–2003–0085, which is available for online viewing at *www.regulations.gov*, or in person viewing at the Air and Radiation Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The EPA/DC Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the Air and Radiation Docket is 202–566–1742.

Use EPA's electronic docket and comment system at *www.regulations.gov,* to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov.*

Title: NESHAP for Radionuclides (Renewal).

ICR numbers: EPA ICR No. 1100.14, OMB Control No. 2060–0191.

ICR Status: This ICR is scheduled to expire on July 31, 2012. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: In the context of the Clean Air Act (42 U.S.C. 1857), Section 114 authorizes the Administrator of EPA to require any person who owns or operates any emission source or who is subject to any requirements of the Act to: (1) Establish and maintain records, (2) make reports, install, use, and maintain monitoring equipment or method, (3) sample emissions in accordance with EPA prescribed locations, intervals and methods, and (4) provide information as may be requested. EPA's regional offices use the information collected to ensure that public health continues to be protected from the hazards of radionuclides by compliance with health based standards. This information is required for those facilities meeting the definition of each Subpart. EPA's compliance monitoring activities vary widely. EPA could issue a letter requesting information about compliance or could conduct a full scale investigation, including on-site inspections. The information required to be submitted is not confidential in nature.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 144 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: The NAICS Codes of facilities associated with the activity of the respondents are: (1) Elemental Phosphorous—325188, (2) Phosphogypsum Stacks—212392, (3) Underground Uranium Mines—212291, and (4) Uranium Mill Tailings—212291.

Estimated Number of Respondents: 20.

Frequency of Response: Initially (Once), Annually, Random (Occasionally).

Estimated Total Annual Hour Burden: 2,872.

Estimated Total Annual Cost: $500,572, which includes $283,460 in annualized capital and O&M costs.

Changes in the Estimates: There is a decrease of 6,324 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This decrease reflects a reduction in the number of facilities affected due to dwindling interest in underground uranium mining, fewer conventional uranium impoundments, reduced activities at phosphogypsum facilities, and alternate usage of phosphogypsum, (e.g., as road base).

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2012–15862 Filed 6–27–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2011–0268; FRL–9519–4]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; NESHAP for Benzene Waste Operations (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR which is abstracted below describes the nature of the collection and the estimated burden and cost.

DATES: Additional comments may be submitted on or before July 30, 2012.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2011–0268, to: (1) EPA online, using *www.regulations.gov* (our preferred method), or by email to: *docket.oeca@epa.gov,* or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, Mail Code 28221T, 1200 Pennsylvania Avenue NW., Washington, DC 20460; and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Learia Williams, Monitoring, Assistance, and Media Programs Division, Office of Compliance, Mail Code 2227A, Environmental Protection Agency, 1200 Pennsylvania Avenue NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; email address: *williams.learia@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On May 9, 2011 (76 *FR* 26900), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to both EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under docket ID number EPA–HQ–OECA–2011–0268, which is available for public viewing online at *http://www.regulations.gov,* or in person viewing at the Enforcement and Compliance Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Avenue NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket is (202) 566–1752.

Use EPA's electronic docket and comment system at *http://www.regulations.gov,* to either submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov.*

Title: NESHAP for Benzene Waste Operations (Renewal).

ICR Numbers: EPA ICR Number 1541.10, OMB Control Number 2060–0183.

ICR Status: This ICR is scheduled to expire on August 31, 2012. Under OMB regulations, the Agency may continue to either conduct or sponsor the collection of information while this submission is pending at OMB.

Abstract: The affected entities are subject to the General Provisions of the NESHAP at 40 CFR part 61, subpart A, and any changes, or additions to the Provisions specified at 40 CFR part 61, subpart FF.

Owners or operators of the affected facilities must submit initial notification, performance tests, and periodic reports and results. Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction in the operation of an affected facility, or any period during which the monitoring system is inoperative. Reports, at a minimum, are required semiannually.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 71 hours per response. ''Burden'' means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Owners or operators of benzene waste operations.

Estimated Number of Respondents: 270.

Frequency of Response: Initially, occasionally, quarterly, and semiannually.

Estimated Total Annual Hour Burden: 19,148.

Estimated Total Annual Cost: $1,834,697, which includes $1,834,697 in labor costs exclusively, with no capital/startup costs, and no operation and maintenance (O&M) costs.

Changes in the Estimates: There is an increase in costs for both the respondents and the Agency from the most recently approved ICR. The increase in burden cost is due to adjustments in labor rates. This ICR uses updated labor rates from the Bureau of Labor Statistics to calculate burden costs.

There is an increase of one hour in the Agency burden related to a mathematical rounding error in the previous ICR. There is no change in the estimation methodology for labor hours to the respondents in this ICR compared to the previous ICR. This is due to two considerations: (1) The regulations have not changed over the past three years and are not anticipated to change over the next three years; and (2) The growth rate for respondents is very low, negative, or non-existent.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2012–15863 Filed 6–27–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–RCRA–2011–0983; FRL–9518–7]

Agency Information Collection Activities; Submission to OMB for Review and Approval; Comment Request; Criteria for Classification of Solid Waste Disposal Facilities and Practices (Renewal)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA)(44 U.S.C. 3501 *et seq.*), this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. The ICR, which is abstracted below, describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before July 30, 2012.

ADDRESSES: Submit your comments, referencing Docket ID No. EPA–HQ–RCRA–2011–0983, to (1) EPA online using *www.regulations.gov* (our preferred method), by email to *rcra-docket@epa.gov* or by mail to: RCRA Docket (28221T), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460, and (2) OMB by mail to: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Craig Dufficy, Office of Resource Conservation and Recovery, (5304P), Environmental Protection Agency, 1200 Pennsylvania Ave. NW., Washington, DC 20460; telephone number: 703–308–9037; fax number: 703–308–8686; email address: *Dufficy.Craig@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On February 28, 2012 (77 FR 12048), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments. Any additional comments on this ICR should be submitted to EPA and OMB within 30 days of this notice.

EPA has established a public docket for this ICR under Docket ID No. EPA–HQ–RCRA–2011–0983, which is available for online viewing at *www.regulations.gov,* or in person viewing at the Resource Conservation and Recovery Act (RCRA) Docket in the EPA Docket Center (EPA/DC), EPA West, Room 3334, 1301 Constitution Ave. NW., Washington, DC. The EPA/DC Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is 202–566–1744, and the telephone number for the RCRA Docket is 202–566–0270.

Use EPA's electronic docket and comment system at *www.regulations.gov*, to submit or view public comments, access the index listing of the contents of the docket, and to access those documents in the docket that are available electronically. Once in the system, select ''docket search,'' then key in the docket ID number identified above. Please note that EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, confidential business information (CBI), or other information whose public disclosure is restricted by statute. For further information about the electronic docket, go to *www.regulations.gov.*

Title: Criteria for Classification of Solid Waste Disposal Facilities and Practices (Renewal)

ICR numbers: EPA ICR No. 1745.07, OMB Control No. 2050–0154.

ICR Status: This ICR is scheduled to expire on July 31, 2012. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. An Agency may not conduct or sponsor, and a person is not required to respond to, a collection of information, unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in title 40 of the CFR, after appearing in the **Federal Register** when approved, are listed in 40 CFR part 9, are displayed either by publication in the **Federal Register** or by other appropriate means, such as on the related collection instrument or form, if applicable. The display of OMB control numbers in certain EPA regulations is consolidated in 40 CFR part 9.

Abstract: In order to effectively implement and enforce final changes to 40 CFR part 257—Subpart B on a State level, owners/operators of construction and demolition waste landfills that receive Conditionally Exempt Small Quantity Generator (CESQG) hazardous wastes will have to comply with the final reporting and recordkeeping requirements. The information collected is used by the States to regulate and ensure that non-municipal non-hazardous waste disposal units that receive CESQG hazardous wastes, and CESQGs, are complying with the final revisions to the part 257, subpart B criteria and the revisions to part 261. This program is implemented by approved States and all information will be reported to the States or kept in an operating record; in unapproved States, the ''Criteria for Classification of Solid Waste Disposal Facilities and Practices'' (40 CFR part 257) are self implementing, meaning that the owner/operator documents compliance with the Criteria and places the documentation in the operating record. Once established as a non-municipal non-hazardous waste disposal unit, ground-water monitoring is to be conducted throughout the active life of the unit plus 30 years. The only units that will incur burdens under the part 257, subpart B rule continue to be construction and demolition landfills that receive CESQG waste from off-site generators. EPA has reviewed Biocycle trade magazine and has concluded that the number of Construction and Demolition (C&D) landfills has stopped the decline and has remained at the current level of 134. The number of respondents is therefore 134 C&D waste landfills plus 18 States, for a total of 152 respondents.

The Agency assumes 14 new and lateral expansion of existing units will be activated per year accepting CESQG waste subject to Part 257, Subpart B rule. EPA has estimated a one-time recordkeeping requirement for the Floodplains location restriction of 10 hours per unit. There is a one-time reporting burden of two hours per unit. Owners and operators of non-municipal non-hazardous waste disposal units that may receive CESQG wastes may demonstrate (document) that there is no potential for migration of hazardous constituents from the unit. The demonstration is to be based on site-specific data and fate and transport modeling. EPA estimates that no more than 1 owner/operator out of the 14 new facilities will attempt this demonstration. EPA assumes that the required documentation would result in a one-time reporting requirement of 100 hours per unit. One-time burden hours are incurred under this provision for 3 of the 14 new small/arid/remote facilities that are eligible to use alternative ground-water monitoring and choose to upgrade. The Agency assumes that 3 of the total 14 new units will be located in small/arid/remote locations. There is a one-time

recordkeeping burden of 10 hours per unit and a one-time reporting burden of two hours per unit. EPA estimates 14 new or lateral expansions of existing construction and demolition landfills will choose to upgrade and will not be eligible to use alternative ground-water monitoring techniques. The Agency assumes the one-time reporting requirement of 20 hours per unit would result for these 14 new or lateral expansions of existing units. EPA estimates the total annual reporting burden for detection monitoring to be 32 hours per year for the 134 existing units and the 14 new or lateral expansions of existing units per year. The annual recordkeeping requirement burden is two hours for each unit. For assessment monitoring, EPA estimates that this rule would impose an annual reporting burden of 32 hours per occurrence per year. For corrective action, EPA estimated an annual reporting burden of 200 hours per year to document progress in clean-up activities. There are annual recordkeeping burdens at §§ 257.27(b), 257.28(c)(4) and 257.28(e)(2). Each of these annual recordkeeping burdens requires two hours per unit, for a total of six hours. EPA estimates that the recordkeeping requirement at § 257.30 to place notifications in the operating record will impose a one-time recordkeeping burden of 10 hours on 1 new or lateral expansion of an existing unit per year.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 74 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements which have subsequently changed; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

Respondents/Affected Entities: Private Solid Waste Disposal Facilities, States.

Estimated Number of Respondents: 152.

Frequency of Response: On occasion.

Estimated Total Annual Hour Burden: 11,220.

Estimated Total Annual Cost: $2,097,810, which includes $520,151 in annualized labor and $1,577,659 in annualized capital or O&M costs.

Changes in the Estimates: There is a change of 1 hour in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This is due to a constant number of Construction & Demolition landfills and an adjustment due to rounding numbers.

John Moses,

Director, Collection Strategies Division.

[FR Doc. 2012–15864 Filed 6–27–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9694–5]

Notice of Proposed Administrative Settlement Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: Notice is hereby given of a proposed administrative settlement concerning the Arkansas Waste to Energy Superfund Site, located in Osceola, Mississippi County, Arkansas. The settlement requires the settling party to pay a total of $2,500,000 as payment of response costs to the Hazardous Substance Superfund). The settlement includes a covenant not to sue pursuant to Section 107 of CERCLA. For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to this notice and will receive written comments relating to the settlement.

SUPPLEMENTARY INFORMATION: In accordance with Section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative settlement concerning the Arkansas Waste to Energy Superfund Site, located in Osceola, Mississippi County, Arkansas.

The settlement requires the settling party to pay a total of $2,500,000 as payment of response costs to the Hazardous Substance Superfund). The settlement includes a covenant not to sue pursuant to Section 107 of CERCLA, 42, U.S.C. 9607.

For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to this notice and will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at 1445 Ross Avenue, Dallas, Texas 75202–2733.

DATES: Comments must be submitted on or before July 30, 2012.

ADDRESSES: The proposed settlement and additional background information relating to the settlement are available for public inspection at 1445 Ross Avenue, Dallas, Texas 75202–2733. A copy of the proposed settlement may be obtained from Cynthia Brown at, 1445 Ross Avenue, Dallas, Texas 75202–2733 or by calling (214) 665–7480. Comments should reference the Arkansas Waste to Energy Superfund Site, located in Osceola, Mississippi County, Arkansas, and EPA Docket Number 06–02–12, and should be addressed to Cynthia Brown at the address listed above.

FOR FURTHER INFORMATION CONTACT: George Malone, Assistant Regional Counsel, 1445 Ross Avenue, Dallas, Texas 75202–2733 or call (214) 665–8030.

Dated: June 15, 2012.

Samuel Coleman,

Acting Regional Administrator, Region 6.

[FR Doc. 2012–15905 Filed 6–27–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[9694–3]

Notice of Proposed Administrative Settlement Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: Notice is hereby given of a proposed administrative settlement concerning the Arkansas Waste to Energy Superfund Site, located in Osceola, Mississippi County, Arkansas. The settlement requires the settling parties to pay a total of $12,727.17 as payment of response costs to the Hazardous Substances Superfund. The settlement includes a covenant not to sue pursuant to Section 107 of CERCLA.

For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to this notice and will receive written comments relating to the settlement.

SUPPLEMENTARY INFORMATION: In accordance with Section 122(i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative settlement concerning the Arkansas Waste to Energy Superfund Site, located in Osceola, Mississippi County, Arkansas.

The settlement requires the settling parties to pay a total of $12,727.17 as payment of response costs to the Hazardous Substances Superfund. The settlement includes a covenant not to sue pursuant to Section 107 of CERCLA, 42, U.S.C. 9607.

For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to this notice and will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at 1445 Ross Avenue, Dallas, Texas 75202–2733.

DATES: Comments must be submitted on or before July 30, 2012.

ADDRESSES: The proposed settlement and additional background information relating to the settlement are available for public inspection at 1445 Ross Avenue, Dallas, Texas 75202–2733. A copy of the proposed settlement may be obtained from Cynthia Brown at, 1445 Ross Avenue, Dallas, Texas 75202–2733 or by calling (214) 665–7480. Comments should reference the Arkansas Waste to Energy Superfund Site, located in Osceola, Mississippi County, Arkansas, and EPA Docket Number 06–07–11, and should be addressed to Cynthia Brown at the address listed above.

FOR FURTHER INFORMATION CONTACT: George Malone, Assistant Regional Counsel, 1445 Ross Avenue, Dallas, Texas 75202–2733 or call (214) 665–8030.

Dated: June 15, 2012.

Samuel Coleman,

Acting Regional Administrator, Region 6.

[FR Doc. 2012–15880 Filed 6–27–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9694–2]

Notice of Proposed Administrative Settlement Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: Notice is hereby given of a proposed administrative settlement concerning the Arkansas Waste to Energy Superfund Site, located in Osceola, Mississippi County, Arkansas. The settlement requires the settling party to pay a total of $50,000 as payment of response costs to the Hazardous Substances Superfund. The settlement includes a covenant not to sue pursuant to Section 107 of CERCLA. For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to this notice and will receive written comments relating to the settlement.

SUPPLEMENTARY INFORMATION: In accordance with Section 122 (i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative settlement concerning the Arkansas Waste to Energy Superfund Site, located in Osceola, Mississippi County, Arkansas.

The settlement requires the settling party to pay a total of $50,000 as payment of response costs to the Hazardous Substances Superfund. The settlement includes a covenant not to sue pursuant to Section 107 of CERCLA, 42, U.S.C. 9607.

For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to this notice and will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at 1445 Ross Avenue, Dallas, Texas 75202–2733.

DATES: Comments must be submitted on or before July 30, 2012.

ADDRESSES: The proposed settlement and additional background information relating to the settlement are available for public inspection at 1445 Ross Avenue, Dallas, Texas 75202–2733. A copy of the proposed settlement may be obtained from Cynthia Brown at, 1445 Ross Avenue, Dallas, Texas 75202–2733 or by calling (214) 665–7480. Comments should reference the Arkansas Waste to Energy Superfund Site, located in Osceola, Mississippi County, Arkansas, and EPA Docket Number 06–05–11, and should be addressed to Cynthia Brown at the address listed above.

FOR FURTHER INFORMATION CONTACT: George Malone, Assistant Regional Counsel, 1445 Ross Avenue, Dallas, Texas 75202–2733 or call (214) 665–8030.

Dated: June 15, 2012.

Samuel Coleman,

Acting Regional Administrator, Region 6.

[FR Doc. 2012–15879 Filed 6–27–12; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–9694–4]

Notice of Proposed Administrative Settlement Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

AGENCY: Environmental Protection Agency.

ACTION: Notice; request for public comment.

SUMMARY: Notice is hereby given of a proposed administrative settlement concerning the Arkansas Waste to Energy Superfund Site, located in Osceola, Mississippi County, Arkansas. The settlement requires the settling party to pay a total of $220,000 as payment of response costs to the Hazardous Substances Superfund. The settlement includes a covenant not to sue pursuant to Section 107 of CERCLA. For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to this notice and will receive written comments relating to the settlement.

SUPPLEMENTARY INFORMATION: In accordance with Section 122 (i) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended (''CERCLA''), 42 U.S.C. 9622(i), notice is hereby given of a proposed administrative settlement concerning the Arkansas Waste to Energy Superfund Site, located in Osceola, Mississippi County, Arkansas.

The settlement requires the settling party to pay a total of $220,000 as payment of response costs to the

Hazardous Substances Superfund. The settlement includes a covenant not to sue pursuant to Section 107 of CERCLA, 42, U.S.C. 9607.

For thirty (30) days following the date of publication of this notice, the Agency will receive written comments relating to this notice and will receive written comments relating to the settlement. The Agency will consider all comments received and may modify or withdraw its consent to the settlement if comments received disclose facts or considerations which indicate that the settlement is inappropriate, improper, or inadequate. The Agency's response to any comments received will be available for public inspection at 1445 Ross Avenue, Dallas, Texas 75202–2733.

DATES: Comments must be submitted on or before July 30, 2012.

ADDRESSES: The proposed settlement and additional background information relating to the settlement are available for public inspection at 1445 Ross Avenue, Dallas, Texas 75202–2733. A copy of the proposed settlement may be obtained from Cynthia Brown at, 1445 Ross Avenue, Dallas, Texas 75202–2733 or by calling (214) 665–7480. Comments should reference the Arkansas Waste to Energy Superfund Site, located in Osceola, Mississippi County, Arkansas, and EPA Docket Number 06–06–11, and should be addressed to Cynthia Brown at the address listed above.

FOR FURTHER INFORMATION CONTACT: George Malone, Assistant Regional Counsel, 1445 Ross Avenue, Dallas, Texas 75202–2733 or call (214) 665–8030.

Dated: June 15, 2012.

Samuel Coleman,

Acting Regional Administrator, Region 6.

[FR Doc. 2012–15903 Filed 6–27–12; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

[DA 12–829; DA 12–979]

Open Internet Advisory Committee

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The Commission announces appointment of members and chairperson to its Open Internet Advisory Committee (Committee). The Commission further announces the Committee's first meeting date, time, and agenda. The Committee was established to track and evaluate the effects of the Commission's Open Internet rules, and to provide any recommendations it deems appropriate to the Commission regarding policies and practices related to preserving the open Internet. The Committee will observe market developments regarding the freedom and openness of the Internet and will focus in particular on issues addressed in the Commission's Open Internet rules, such as transparency, reasonable network management practices, differences in treatment of fixed and mobile broadband services, specialized services, and technical standards.

DATES: July 20, 2012, 10 a.m. to 2 p.m., at the Commission's Headquarters Building, Room 3–B516.

ADDRESSES: Federal Communications Commission, 445 12th Street SW., Washington DC 20554.

FOR FURTHER INFORMATION CONTACT: Daniel Kirschner, Office of General Counsel, (202) 418–1735, or email *Daniel.Kirschner@fcc.gov*; or Deborah Broderson, Consumer and Governmental Affairs Bureau, (202) 418–0652, or email at *Deborah.Broderson@fcc.gov*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's document DA 12–829, released May 25, 2012, announcing the appointment of members and chairperson to the Committee, and DA 12–979, released June 21, 2012, announcing the agenda, date and time of the Committee's first meeting. By notice of intent to establish the Open Internet Advisory Committee, published at 76 FR 22395, April 21, 2011 the Commission announced the establishment of the Committee. By public notice, DA 11–1149, dated and released June 30, 2011, the Commission solicited applications for membership on the Committee. Members must be willing to commit to a two (2) year term of service, and to attend approximately two (2) one-day meetings per year in Washington, DC.

Appointment of Members and Chairperson

By document DA 12–829, Federal Communications Commission Chairman Julius Genachowski (Chairman) appointed twenty-one (21) members to its Open Internet Advisory Committee.

The roster as appointed by the Chairman is as follows:

Dr. Jonathan Zittrain, Professor of Law and Computer Science and Co-Founder of the Berkman Center for Internet and Society, Harvard University, is appointed chairperson of the Committee.

Dr. David Clark, Senior Research Scientist, Massachusetts Institute of Technology Computer Science and Artificial Intelligence Laboratory, is appointed vice-chairperson.

Members include:

Harvey Anderson, Vice President of Business Affairs & General Counsel, Mozilla

Brad Burnham, Founding Partner, Union Square Ventures

Alissa Cooper, Chief Computer Scientist, Center for Democracy & Technology

Leslie Daigle, Chief Internet Technology Officer, Internet Society

Jessica Gonzalez, Executive Board, Media and Democracy Coalition; Vice President for Policy & Legal Affairs, National Hispanic Media Coalition (representing NHMC)

Shane Greenstein, Professor and Kellogg Chair of Information Technology, Kellogg School of Management, Northwestern University

Russell Housley, Chair, Internet Engineering Task Force; Founder of Vigil Security, LLC (representing Vigil Security, LLC)

Neil Hunt, Chief Product Officer, Netflix

Charles Kalmanek, Vice President of Research, AT&T

Matthew Larsen, CEO, Vistabeam

Kevin McElearney, Senior Vice President for Network Engineering, Comcast

Marc Morial, President & CEO, National Urban League

Elaine Paul, Senior Vice President, Strategic Planning, The Walt Disney Company

Jennifer Rexford, Professor of Computer Science, Princeton University

Dennis Roberson, Vice Provost & Research Professor, Illinois Institute of Technology (representing T–Mobile)

Chip Sharp, Director, Technology Policy and Internet Governance, Cisco Systems

Charles Slocum, Assistant Executive Director, Writers Guild of America, West

Marcus Weldon, Chief Technology Officer, Alcatel-Lucent

Michelle Zatlyn, Co-Founder & Head of User Experience, CloudFlare

Meeting Date, Time and Agenda

The first meeting of the Committee will take place on July 20, 2012, from 10 a.m. to 2 p.m. at the Commission's headquarters building, Room 3–B516, 445 12th Street SW., Washington, DC 20554.

At its July 20, 2012 meeting, the Committee will consider administrative and procedural matters relating to its functions and may also consider open Internet-related issues. A limited amount of time will be available on the

agenda for comments from the public. Alternatively, members of the public may send written comments to: Daniel Kirschner, Designated Federal Officer of the Committee at the address provided above.

The meeting is open to the public and the site is fully accessible to people using wheelchairs or other mobility aids. Open captioning will be provided for this event. Other reasonable accommodations for people with disabilities are available upon request. Requests for such accommodations should be submitted via email to *fcc504@fcc.gov* or by calling the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). Such requests should include a detailed description of the accommodation needed. In addition, please include your contact information. Please allow at least five days advance notice; last minute requests will be accepted, but may be impossible to fill.

Federal Communications Commission.

Mark Stone,

Deputy Chief, Consumer and Governmental Affairs Bureau.

[FR Doc. 2012–15760 Filed 6–27–12; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Radio Broadcasting Services; AM or FM Proposals To Change the Community of License

AGENCY: Federal Communications Commission.

ACTION: Notice.

SUMMARY: The following applicants filed AM or FM proposals to change the community of license: AGNUS DEI COMMUNICATIONS, INC., Station NEW, Facility ID 190433, BNPH–20120529AKN, From MISSION, SD, To MURDO, SD; ALEX MEDIA, INC., Station NEW, Facility ID 190402, BNPH–20120515ABA, From FRANKLIN, LA, To BELLE ROSE, LA; CBS RADIO STATIONS INC., Station WMSF, Facility ID 29567, BPH–20120529AKO, From WEST PALM BEACH, FL, To MIRAMAR, FL; EDUCATIONAL MEDIA FOUNDATION, Station NEW, Facility ID 190375, BNPH–20120529ALF, From HOTCHKISS, CO, To COLONA, CO; E–STRING WIRELESS, LTD., Station KAGZ, Facility ID 164167, BPH–20120521BEQ, From LUFKIN, TX, To BURKE, TX; KONA COAST RADIO, LLC, Station NEW, Facility ID 190386, BNPH–20120529AJH, From DUBOIS, ID, To SUGAR CITY, ID; KONA COAST RADIO, LLC, Station NEW, Facility ID 190387, BNPH–20120529ALM, From MANILA, UT, To JAMES TOWN, WY; REDWOOD EMPIRE STEREOCASTERS, Station NEW, Facility ID 190436, BNPH–20120524AID, From CLOVERDALE, CA, To GUERNEVILLE, CA; ROY E. HENDERSON, Station KLTR, Facility ID 40775, BPH–20120529ADI, From BRENHAM, TX, To HEMPSTEAD, TX; ROY E. HENDERSON, Station KTWL, Facility ID 21204, BPH–20120529ADK, From HEMPSTEAD, TX, To TODD MISSION, TX; SOUTHEASTERN OKLAHOMA RADIO, LLC, Station NEW, Facility ID 190388, BNPH–20120529AJN, From PITTSBURG, OK, To HARTSHORNE, OK; THRESHOLD COMMUNICATIONS, Station NEW, Facility ID 189494, BNPH–20110630AHJ, From CLATSKANIE, OR, To NAPAVINE, WA.

DATES: The agency must receive comments on or before August 27, 2012.

ADDRESSES: Federal Communications Commission, 445 Twelfth Street SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Tung Bui, 202–418–2700.

SUPPLEMENTARY INFORMATION: The full text of these applications is available for inspection and copying during normal business hours in the Commission's Reference Center, 445 12th Street SW., Washington, DC 20554 or electronically via the Media Bureau's Consolidated Data Base System, *http://svartifoss2.fcc.gov/prod/cdbs/pubacc/prod/cdbs_pa.htm.* A copy of this application may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street SW., Room CY–B402, Washington, DC 20554, telephone 1–800–378–3160 or *www.BCPIWEB.com.*

Federal Communications Commission.

James D. Bradshaw,

Deputy Chief, Audio Division, Media Bureau.

[FR Doc. 2012–15757 Filed 6–27–12; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications will also be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than July 23, 2012.

A. Federal Reserve Bank of Chicago (Colette A. Fried, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. *Heartland Bancorp, Inc.,* Bloomington, Illinois; to acquire Farmer City State Bank, Farmer City, Illinois.

Board of Governors of the Federal Reserve System, June 25, 2012.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. 2012–15861 Filed 6–27–12; 8:45 am]

BILLING CODE 6210–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Request for Comments on Ethical Issues Associated with the Development of Medical Countermeasures for Children

AGENCY: Department of Health and Human Services, Office of the Secretary, Presidential Commission for the Study of Bioethical Issues.

ACTION: Notice.

SUMMARY: The Presidential Commission for the Study of Bioethical Issues is requesting public comment on the ethical issues associated with the development of medical countermeasures for children, including ethical considerations surrounding clinical research with children, ethical considerations surrounding pediatric medical countermeasure research, and ethical considerations surrounding emergency access to and use of medical countermeasures.

DATES: To ensure consideration, comments must be received by August 27, 2012. Comments received after this date will be considered only as time permits.

ADDRESSES: Individuals, groups, and organizations interested in commenting on this topic may submit comments by email to info@bioethics.gov or by mail to the following address: Public Commentary, Presidential Commission for the Study of Bioethical Issues, 1425 New York Avenue NW., Suite C–100, Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: Hillary Wicai Viers, Communications Director, Presidential Commission for the Study of Bioethical Issues. Telephone: 202–233–3960. Email: *hillary.viers@bioethics.gov.* Additional information may be obtained at *http://www.bioethics.gov.*

SUPPLEMENTARY INFORMATION: On November 24, 2009, the President established the Presidential Commission for the Study of Bioethical Issues (the Commission) to advise him on bioethical issues generated by novel and emerging research in biomedicine and related areas of science and technology. The Commission is charged to identify and promote policies and practices that ensure ethically responsible conduct of scientific research and healthcare delivery. Undertaking these duties, the Commission seeks to identify and examine specific bioethical, legal, and social issues related to potential scientific and technological advances; examine diverse perspectives and possibilities for international collaboration on these issues; and recommend legal, regulatory, or policy actions as appropriate.

On January 6, 2012, HHS Secretary Kathleen Sebelius asked the Commission to ''conduct a thorough review of the ethical considerations of conducting clinical trials of medical countermeasures in children,'' including the ethical considerations of conducting a pre- and post-event pediatric study of Anthrax Vaccine Adsorbed (AVA) as a component of post-exposure prophylaxis, in order to address ''how best to obtain clinical data on medical countermeasures in children.'' Accordingly, the Commission is examining ethical issues surrounding the development of medical treatments to keep children safe in the event of a public health emergency. While significant progress has been made in the development of medical countermeasures for adults, the development of similar products for children has lagged, in part because of challenges in conducting safety and immunogenicity studies. In the 2011 report, ''Challenges in the Use of Anthrax Vaccine Adsorbed (AVA) in the Pediatric Population as a Component of Post-Exposure Prophylaxis,'' the National Biodefense Science Board recommended that the Department of Health and Human Services move forward with testing AVA before a public health emergency but only after the ethical considerations are adequately addressed and reviewed.

The Commission is requesting public comment on the ethical issues associated with the development of medical countermeasures for children, including ethical considerations surrounding clinical research with children, ethical considerations surrounding pediatric medical countermeasure research, and ethical considerations surrounding emergency access to and use of medical countermeasures. To this end, the Commission is inviting interested parties to provide input and advice through written comments.

The Commission is particularly interested in policies, practices, research, and perspectives on ethical issues associated with pre- and post-event studies testing the safety, dose, and/or immunogenicity of medical countermeasures for and with children. Among other issues, specifically:

- How to conceptualize and consider risk and societal value when reviewing pediatric clinical research in general and for medical countermeasures in particular;
- the types of information, data, or facts needed to ensure evidence-based decision-making for conducting pediatric medical countermeasure research;
- possible criteria, if any, that might classify proposed studies testing medical countermeasures for pediatric use as minimal risk;
- ethical issues related to access to and allocation of medical countermeasures previously studied within pediatric populations in a public health emergency;
- scientific and public health strategies that could minimize the risk or ethical concerns associated with pediatric medical countermeasure research;
- strategies for communicating risk to prospective participants and their families; and
- the role communities play in the design and support of pediatric research and pediatric medical countermeasure research.

Please address comments by email to info@bioethics.gov, or by mail to the following address: Public Commentary, Presidential Commission for the Study of Bioethical Issues, 1425 New York Avenue NW., Suite C–100, Washington, DC 20005. Comments will be publicly available, including any personally identifiable or confidential business information that they contain. Trade secrets should not be submitted.

Dated: June 15, 2012.

Lisa M. Lee,

Executive Director, Presidential Commission for the Study of Bioethical Issues.

[FR Doc. 2012–15841 Filed 6–27–12; 8:45 am]

BILLING CODE 4154–06–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Findings of Research Misconduct

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Office of Research Integrity (ORI) has taken final action in the following case:

Mona Thiruchelvam, Ph.D., University of Medicine and Dentistry of New Jersey: Based on the report of an investigation conducted by the University of Medicine and Dentistry of New Jersey (UMDNJ) and additional analysis conducted by ORI in its oversight review, ORI found that Dr. Mona Thiruchelvam, former Assistant Professor, Department of Environment and Occupational Health Science Institute (EOHSI), UMDNJ, engaged in research misconduct in research supported by National Institute of Environmental Health Sciences (NIEHS), National Institutes of Health (NIH), grants P30 ES05022, P30 ES01247, and R01 ES10791 and the intramural program at the National Institute on Drug Abuse (NIDA), NIH.

ORI found that the Respondent engaged in research misconduct by falsifying and fabricating cell count data that she claimed to have obtained through stereological methods in order to falsely report the effects of combined exposure of the pesticides paraquat and maneb on dopaminergic neuronal death and a neuroprotective role for estrogen in a murine model of Parkinson's disease. The Respondent provided to the institution corrupted data files as the data for stereological cell counts of nigrostriatal neurons in brains of several mice and rats by copying a single data file from a previous experiment and renaming the copies to fit the description of 13 new experiments composed of 293 data files when

stereological data collection was never performed for the questioned research.

The fabricated data, falsified methodology, and false claims based on fabricated and falsified data were reported in two NIEHS, NIH, grant applications, two publications, a poster, and a manuscript in preparation:

• R01 ES016277, ''Development Pesticide Exposure: The Parkinson's Disease Phenotype'' (Dr. Mona J. Thiruchelvam, Principal Investigator [P.I.]), submitted 1/26/2007 and funded.

• R01 ES015041, ''Gender and the Parkinson's Disease Phenotype'' (Dr. Mona J. Thiruchelvam, P.I.), submitted 12/19/05.

• Rodriguez, V.M., Thiruchelvam, M., & Cory-Slechta, D.A. ''Sustained Exposure to the Widely Used Herbicide, Atrazine: Altered Function and Loss of Neurons in Brain Monamine Systems.'' *Environ Health Perspect.* 113(6):708–715, 2005 (''*EHP* paper'').

• Thiruchelvam, M., Prokopenko, O., Cory-Slechta, D.A., Richfield, E.K., Buckley, B., & Mirochnitchenko, O. ''Overexpression of Superoxide Dismutase or Glutathione Peroxidase Protects against the Paraquat + Maneb-induced Parkinson Disease Phenotype.'' *J. Biol. Chem.* 280(23):22530–22539, 2005 (''*JBC* paper'').

• Harvey, K., Victor, A.I., Wang, Y., Kochar, Y., Cory-Slechta, D.A., & Thiruchelvam, M. ''Gene Delivery of GDNF Impedes Progressive Neurodegeneration in Paraquat and Maneb Exposure Model of Parkinson's Disease.'' Poster presentation, *Neuroscience* 2006 (''*Neuroscience* poster'').

• Thiruchelvam, M., Kochar, Y., Mehta, H., Prokopenko, O., Cory-Slechta, D.A., Richfield, E.K., & Mirochnitchenko, O. ''Mechanisms associated with gender difference in the paraquat and maneb animal model of Parkinson's disease, 2006 (''manuscript'').

Specifically, ORI finds that the Respondent engaged in research misconduct by knowingly and intentionally:

• Falsifying and fabricating summary bar graphs and methodology for stereological cell counts in a murine model of Parkinson's disease, when the stereological counts were never performed;

• Copying and altering in multiple ways a single stereology ''.dat'' computer file generated on August 18, 2002, and renaming it to generate 293 data files representing counts for 13 new experiments that were never performed, by altering the files to make them unreadable and claiming that these files were from valid stereological cell count experiments carried out at UMDNJ between 2004 and 2006;

• Falsifying a bar graph representing brain proteasomal activity, by selectively altering data for relative fluorescent unit (RFU) values to support the hypothesis that development of Parkinson's disease entails proteasomal dysfunction with a higher effect in males compared to females;

• By failing to perform stereological cell counts, the following figures of summary bar graphs, reported methodology, and related claims of the Respondent's *JBC* paper, *EHP* paper, a manuscript, a poster, and two grant applications were falsified:

—Figure 7B and the related text in R01 ES016277–01 and the *Neuroscience* 2006 poster

—Figure 4 and the related text in R01 ES016277–01

—Figure 9 and the related text in R01 ES016277–01 and R01 ES015041

—Figure 3 and the related text in the *JBC* paper

—Figure 4 and the related text in the *EHP* paper

—Figure 5 and the related text in a *manuscript* in preparation

• By falsifying and selectively altering experimental data for relative fluorescent unit values of brain proteasomal activity, the summary bar graph in Figure 6 and the claim that combined exposure of the pesticides causes significant decreases in proteasomal activity with a higher effect in males than in females were falsified in NIH grant application R01 ES016277.

Dr. Thiruchelvam has entered into a Voluntary Exclusion Agreement (Agreement) and has voluntarily agreed for a period of seven (7) years, beginning on June 13, 2012:

(1) To exclude herself from any contracting or subcontracting with any agency of the United States Government and from eligibility or involvement in nonprocurement programs of the United States Government referred to as ''covered transactions'' pursuant to HHS' Implementation (2 CFR part 376 *et seq*) of OMB Guidelines to Agencies on Governmentwide Debarment and Suspension, 2 CFR part 180 (collectively the ''Debarment Regulations'');

(2) To exclude herself from serving in any advisory capacity to PHS including, but not limited to, service on any PHS advisory committee, board, and/or peer review committee, or as a consultant; and

(3) to request retraction of the following two papers:

• *Environ Health Perspect.* 113(6):708–715, 2005

• *J. Biol. Chem.* 280(23):22530–22539, 2005.

FOR FURTHER INFORMATION CONTACT: Director, Division of Investigative Oversight, Office of Research Integrity, 1101 Wootton Parkway, Suite 750, Rockville, MD 20852, (240) 453–8800.

John Dahlberg,

Director, Division of Investigative Oversight, Office of Research Integrity.

[FR Doc. 2012–15887 Filed 6–27–12; 8:45 am]

BILLING CODE 4150–31–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Meeting of the National Advisory Council for Healthcare Research and Quality

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Notice of public meeting.

SUMMARY: In accordance with section 10(a) of the Federal Advisory Committee Act, 5 U.S.C. App. 2, this notice announces a meeting of the National Advisory Council for Healthcare Research and Quality.

DATES: The meeting will be held on Friday, July 13, 2012, from 8:30 a.m. to 3:30 p.m.

ADDRESSES: The meeting will be held at the Eisenberg Conference Center, Agency for Healthcare Research and Quality, 540 Gaither Road, Rockville, Maryland 20850.

FOR FURTHER INFORMATION CONTACT: Jaime Zimmerman, Coordinator of the Advisory Council, at the Agency for Healthcare Research and Quality, 540 Gaither Road, Rockville, Maryland, 20850, (301) 427–1456. For press-related information, please contact Alison Hunt at (301) 427–1244.

If sign language interpretation or other reasonable accommodation for a disability is needed, please contact the Food and Drug Administration (FDA) Office of Equal Employment Opportunity and Diversity Management on (301) 827–4840, no later than Friday, March 16, 2012. The agenda, roster, and minutes are available from Ms. Bonnie Campbell, Committee Management Officer, Agency for Healthcare Research and Quality, 540 Gaither Road, Rockville, Maryland, 20850. Ms. Campbell's phone number is (301) 427–1554.

SUPPLEMENTARY INFORMATION:

I. Purpose

The National Advisory Council for Healthcare Research and Quality is

authorized by Section 941 of the Public Health Service Act, 42 U.S.C. 299c. In accordance with its statutory mandate, the Council is to advise the Secretary of the Department of Health and Human Services and the Director, Agency for Healthcare Research and Quality (AHRQ), on matters related to AHRQ's conduct of its mission including providing guidance on (A) Priorities for health care research, (B) the field of health care research including training needs and information dissemination on health care quality and (C) the role of the Agency in light of private sector activity and opportunities for public private partnerships.

The Council is composed of members of the public, appointed by the Secretary, and Federal ex-officio members specified in the authorizing legislation.

II. Agenda

On Friday, July 13, 2012, the Council meeting will convene at 8:30 a.m., with the call to order by the Council Chair and approval of previous Council summary notes. The AHRQ Director will present her update on current research, programs, and initiatives. Following the morning session, the Council will hold an Executive Session between the hours of 12 p.m. and 1:30 p.m. This Executive Session will be closed to the public in accordance with 5 U.S.C. App. 2, section 10(d) and 5 U.S.C. 552b(c)(9)(B). This portion of the meeting is likely to disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action. The final agenda will be available on the AHRQ Web site at *www.AHRQ.gov* no later than Friday, June 29, 2012.

Dated: June 21, 2012.

Carolyn M. Clancy,

Director.

[FR Doc. 2012–15795 Filed 6–27–12; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[Docket Number CDC–2012–0008; NIOSH–251]

Request for Information: Collection and Use of Patient Work Information in the Clinical Setting: Electronic Health Records

AGENCY: The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS).

ACTION: Request for public comments.

SUMMARY: The National Institute for Occupational Safety and Health (NIOSH) of the Centers for Disease Control and Prevention (CDC), Department of Health and Human Services (HHS) requests public comments to inform its approach in recommending the inclusion of work information in the electronic health record (EHR). NIOSH requests input on these issues (including answers to the three questions listed below). The instructions for submitting comments can be found at *www.regulations.gov*. Written comments submitted to the Docket will be used to inform NIOSH with its planning and activities in response to the 2011 letter report ''Incorporating Occupational Information in Electronic Health Records'' written by the Institute of Medicine (IOM) Committee on Occupation and Electronic Health Records.

DATES: *Public Comment Period:* Comments must be received by August 27, 2012. Comments should reference docket number CDC–2012–0008.

ADDRESSES: Written comments: You may submit comments by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* NIOSH Docket Office, Robert A. Taft Laboratories, MS–C34, 4676 Columbia Parkway, Cincinnati, OH 45226.

Instructions: All submissions received must include the agency name and docket number. All relevant comments, including any personal information provided, will be posted without change to *http://www.regulations.gov*.

- *Email: nioshdocket@cdc.gov*.

All information received in response to this notice will be available for public examination and copying at the NIOSH Docket Office, 4676 Columbia Parkway, Cincinnati, Ohio 45226.

NIOSH includes all comments received without change in the docket, including any personal information provided. All material submitted should reference docket number CDC–2012–0008 and must be submitted by August 27, 2012 to be considered by the Agency.

I. Background

Health care in the United States is undergoing a significant change as providers of health care transition from paper-based records to electronic health records (EHRs). EHRs represent the potential for cost savings and other efficiencies and improvements in the way that information is used to inform health care. The Office of the National Coordinator (ONC) for Health Information Technology promotes a nationwide health information technology (HIT) infrastructure that allows for the electronic use and exchange of health information. More information on the ONC and on electronic health records can be found at *http://healthint.hhs.gov.*

NIOSH, along with other centers of CDC, works to promote and protect population health. Public health researchers and practitioners, including those promoting occupational public health, are working to ensure that public health goals are met through the use of EHRs. NIOSH is working to ensure that EHRs will contribute to improvements in individual and population health by meeting the need to support occupational considerations during clinical care and by enhancing public health professionals' understanding of work-related conditions so they can identify effective treatment and prevention strategies. Currently, systematic collection and recording of patient work information in the clinical setting is not widespread. Where work information is collected and recorded in the EHR, that information may not be standardized or converted to structured data (i.e., coded), thus limiting its utility for clinical decision making and public health surveillance. For example, standardized patient occupation and/or industry information could be linked to resources that provide clinical decision support, such as job-specific information about exposures and associated potential health problems, as well as information that would facilitate appropriate determination of return-to-work recommendations.

In 2011, at the request of NIOSH, the Institute of Medicine (IOM) of the National Academies of Science appointed a committee to examine the rationale and feasibility of incorporating occupational information in the EHR. The committee concluded that inclusion of occupational information in the EHR ''could contribute to fully realizing the meaningful use of EHRs in improving individual and population health care''. The Committee provided NIOSH with a set of ten recommendations, including ''Recommendation 1: Conduct Demonstration Projects to Assess the Collection and Incorporation of Information on Occupation, Industry and Work-Relatedness in the EHR.'' The purpose of this Request for Information

(RFI) is to gather information from providers of primary care and occupational medicine, vendors and creators of EHR software, and the public to inform NIOSH's response to this and other IOM recommendations. Gathering information through this RFI will enable NIOSH to understand opportunities and challenges in collecting occupational information and how and why health care providers collect and use this information. The IOM report with the 10 recommendations can be downloaded at: *http://iom.edu/Reports/2011/Incorporating-Occupational-Information-in-Electronic-Health-Records-Letter-Report.aspx.*

NIOSH has released this RFI to learn about how the following types of patient work information are collected and used:

Employment status (e.g., employed, unemployed, disabled, retired, part time/full time, shift)
Patient's current occupation(s)
Patient's current industry(s)
Patient's usual (longest held) occupation(s)
Patient's usual (longest held) industry(s)
Employer(s) name
Employer Address(es)
Work-relatedness of patient's health condition(s)
Other information about patient's work, such as information about exposures at work.

II. Questions of Interest

Input from primary care providers, occupational and public health specialists, EHR vendors and others with interest in the topic is sought on the questions listed below pertaining to the collection and use of work information in the clinical setting. NIOSH is interested in input both from those who are currently using EHRs as well as those who are not.

(1) *For providers of primary health care:* When do the clinicians in your practice setting currently ask patients about their work?

Specifically, what information on patients' work is collected?

If you currently use an EHR:

Where in the health record (either paper or electronic) is patient work information stored and/or viewed? For example, is the work information entered in the 'social history' section of an EMR? Where would you prefer patient work information to be stored and/or viewed in the EHR?

Does your EHR maintain a history of the information so that you can identify how long and when a patient was in a given occupation?

If you currently do not use an EHR, where do you record this information in the paper record? Is it available to the care provider during the patient encounter? Is there a history of the patient's work information available to the care provider?

In your clinical practice, who (which personnel) besides the clinicians collect patients' work information (e.g., registration personnel or nursing assistants)?

Have those personnel been trained specifically in how to collect information about patient's work i.e., how to gain an accurate job title etc.?

Do you collect work information from teenagers?

Do you collect work information from retirees?

Are questions about work routine question or triggered based on specific complaints?

How is work information used to inform patient care?

Please provide an example/description of the usefulness of patient work information in providing care to a patient.

Please provide any additional comments you have about collection or use of patient work information in the clinical setting.

(2) *For providers of occupational (specialty) health care:* At your clinical facility, how is the patient's work information collected?

Specifically, what information on patients' work is collected?

Is the work information entered in the administrative record used for billing purposes?

Is patient work information collected on paper or in an EHR? Is it available to the care provider during the patient encounter?

Is there a history of the patient's work information available to the care provider?

If you use a standardized form to collection information about patients' work, please briefly describe its main elements.

In your clinical practice, who (which personnel) besides the clinicians collect (e.g., registration personnel or nursing assistants)?

Have those personnel been trained specifically in how to collect information about patient's work i.e., how to gain an accurate job title, etc.?

Where in the health record (either paper or electronic) is the information stored? For example, is the work information entered in the 'social history' section?

What are the most important ways that clinicians can use to inform clinical care of patients?

Please provide an example of the usefulness of work information in providing care to a patient.

Do you have any other comments about collection or use of patient work information in the clinical setting?

(3) *For developers and vendors of EHR/software:* Does your base/basic EHR product contain pre-ordained fields for Industry, Occupation, Employer or other information about patients' work? If not, have you been asked to provide these fields?

Regardless of whether they are in the base system or added on request, how are the values in the fields for Industry, Occupation, or other work information formatted (e.g., narrative text, drop-down menus, other)?

Are these values coded and if so, what coding schema are used (e.g., NAICS, SOC, Census codes, user defined)?

To the best of your knowledge, how are the data captured in these fields used by end users of your EHR/product?

Please share challenges you anticipate in managing a history of employer, industry and occupation (current and usual) for multiple employment situations as both text and coded fields in your system, if your system does not already perform these functions?

Could your system access and retrieve information from another web-based system via web services (such as an automated coding system for coding industry and occupation)?

Your comments are appreciated. They will be used to improve NIOSH's electronic health records efforts.

FOR FURTHER INFORMATION CONTACT: Kerry Souza, NIOSH, 395 E Street SW., Suite 9257, Washington, DC 20002, telephone (202) 245–0639, Email *hkv4@cdc.gov.*

Dated: June 20, 2012.

John Howard,

Director, National Institute for Occupational Safety and Health, Centers for Disease Control and Prevention.

[FR Doc. 2012–15896 Filed 6–27–12; 8:45 am]

BILLING CODE 4163–19–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Supplemental Submission for OMB Review; Comment Request

Title: Mother and Infant Home Visiting Program Evaluation: Baseline collection of saliva for measuring cotinine.

OMB No.: 0970–0402.

Description: In 2011, the Administration for Children and Families (ACF) and Health Resources and Services Administration (HRSA)

within the U.S. Department of Health and Human Services (HHS) launched a national evaluation called the Mother and Infant Home Visiting Program Evaluation (MIHOPE). This evaluation, mandated by the Affordable Care Act, will inform the federal government about the effectiveness of the Maternal, Infant, and Early Childhood Home Visiting (MIECHV) program in its first few years of operation, and provide information to help states develop and strengthen home visiting programs in the future. OMB is currently reviewing a data collection package for Phase 1 of the study that includes a survey of parents at baseline (study entry) and various surveys of home visiting program staff and other service providers in the community.

The purpose of the current document is to request approval of collection of saliva at baseline from women participating in the study. Saliva will be used to measure cotinine, a metabolite of nicotine that indicates the extent to which the individual smokes or is subject to second-hand smoke. Smoking is a strong predictor of adverse outcomes for both parents and children and baseline data on smoking will play a key role in the MIHOPE analysis. Prior studies of home visiting have found larger program effects for smokers. Saliva offers a more accurate means to measure smoking compared with self reports.

Saliva for measuring cotinine is being proposed for baseline data collection in response to public comment on the Phase 1 data collection package. To provide the opportunity for public comment, the addition of cotinine is being reviewed separately from the main Phase 1 data collection package.

Respondents: Saliva will be collected from enrolled parents, which will include pregnant women and mothers of children under six months old.

Annual Burden Estimates

The following burden table provides information on the burden of data collection efforts during Phase 1. It is divided into three sections: (1) Data collection related to site recruitment that was previously approved by OMB, (2) data collection currently being reviewed by OMB, and (3) saliva collection. Data collection will take place over a three-year period.

ANNUAL BURDEN ESTIMATES

	Number of respondents	Number of responses per respondent	Average burden hours per response	Total annual burden hours
Approved (Site Recruitment)				
Telephone contact with state administrators	49	1	1.00	49
First round visits with state administrators	18	1	1.50	27
Second round visits with state administrators	15	1	1.50	23
Visits and calls with local program directors	120	1	3.00	360
Site Recruitment Total	.....	.....	.....	459
Under Review (Data Collection)				
Family baseline survey	1,700	1	1.00	1,700
State administrator interview:				
Baseline	8	1	2.00	16
12 Month	8	1	2.00	16
Program manager survey:				
Part 1, Baseline	29	1	0.50	15
Part 2, Baseline	29	1	1.00	29
Part 3, Baseline	29	1	1.00	29
12 month	29	1	2.00	58
Supervisor survey:				
Baseline	33	1	1.25	41
12 month	33	1	1.25	41
Home visitor survey:				
Baseline	170	1	1.25	213
12 month	170	1	1.25	213
Community service providers survey	510	1	0.10	51
Other home visiting programs survey	142	1	0.10	14
Supervisor logs	33	60	0.20	396
Home visitor logs	170	60	0.20	2,040
Group interview:				
Program manager	29	1	1.50	44
Supervisor	33	1	1.50	50
Home visitor	85	1	1.50	128
Home visitor individual interview	85	1	1.50	128
Interview participant questionnaire	232	1	0.05	12
Data Collection Total	.....	.....	.....	5,234
New (Saliva Collection)				
Baseline saliva collection	1,700	1	0.10	170
Saliva Collection Total	1,700	1	0.10	170
Estimated Total Annual Burden Hours	.....	.....	.....	5,863

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. This information collection is a supplement to the Maternal, Infant and Early Childhood Home Visiting Evaluation collection described in a 60 day **Federal Register** Notice, published on December 12, 2011 (Volume 76, No. 238, Page 77236). Per OMB guidance, ACF requests comments on this supplemental information collection within 30 days of this publication. Comments on and requests for copies of the proposed information collection may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, Email address: *OPREinfocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on (a) whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 30 days of this publication.

Steven M. Hanmer,

Reports Clearance Officer.

[FR Doc. 2012–15796 Filed 6–27–12; 8:45 am]

BILLING CODE 4184–22–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Proposed Information Collection Activity; Comment Request

Proposed Projects

Title: Plan for Foster Care and Adoption Assistance—Title IV–E.

OMB No.: 0980–0141.

Description: A title IV–E plan is required by section 471, part IV–E of the Social Security Act (the Act) for each public child welfare agency requesting Federal funding for foster care, adoption assistance and guardianship assistance under the Act. Section 479B of the Act provides for an Indian tribe, tribal organization or tribal consortium (Tribe) to operate a title IV–E program in the same manner as a State with minimal exceptions. The Tribe must have an approved title IV–E Plan. The title IV–E plan provides assurances the programs will be administered in conformity with the specific requirements stipulated in title IV–E. The plan must include all applicable State or Tribal statutory, regulatory, or policy references and citations for each requirement as well as supporting documentation. A title IV–E agency may use the pre-print format prepared by the Children's Bureau of the Administration for Children and Families or a different format, on the condition that the format used includes all of the title IV–E plan requirements of the law.

Respondents: Title IV–E agencies administering or supervising the administration of the title IV–E programs.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
Title IV–E Plan	17	1	16	272

Estimated Total Annual Burden Hours: 272.

In compliance with the requirements of Section 506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Planning, Research and Evaluation, 370 L'Enfant Promenade SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. Email address: *infocollection@acf.hhs.gov*. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 2012–15770 Filed 6–27–12; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Announcement of the Award of Single-Source Cooperative Agreement to Rubicon Programs, Inc., in Richmond, CA

AGENCY: Office of Family Assistance, ACF, HHS.

ACTION: Announcement of the award of a single-source cooperative agreement to Rubicon Programs, Inc, in Richmond, CA, to support Community-Centered Responsible Fatherhood Ex-Prisoner Reentry activities to promote responsible fatherhood, family reunification, and economic stability designed to move individuals and families to self-sufficiency.

CFDA Number: 93.086.

Statutory Authority: The award is made under the authority of Claims

Resettlement Act of 2010 (Pub. L. 111–291).

SUMMARY: The Administration for Children and Families (ACF), Office of Family Assistance (OFA), Division of State and Territory TANF Management (DSTTM) announces the award of a single-source cooperative agreement of $1,500,000 to Rubicon Programs, Inc., in Richmond, CA.

The cooperative agreement will support a demonstration pilot project for responsible fatherhood activities authorized by the Claims Resolution Act of 2010 (Pub. L. 111–291). The Community-Centered Responsible Fatherhood Ex-Prisoner Reentry Pilot Project supports programs that are designed to offer community-centered, pre- and post-release responsible fatherhood and supportive services to formerly incarcerated fathers. The primary purpose of the program is to eliminate barriers to social and economic self-sufficiency for individuals preparing to reenter their communities, or those who have recently returned to their communities following incarceration. The project will implement three legislatively specified activities: Healthy marriage, responsible parenting, and economic stability.

The project will implement a program that includes comprehensive case management to strengthen father, couple, and family relationships and that connect formerly incarcerated fathers to employment, housing (when necessary), and other needed support services to help reduce the likelihood of recidivism. It is expected that the full project period will be 24 months so that, based on performance; the recipient may receive an additional noncompetitive award in Fiscal Year 2013.

DATES: September 30, 2012–September 29, 2013.

FOR FURTHER INFORMATION CONTACT: Robin Y. McDonald, Division Director, Office of Family Assistance, 370 L'Enfant Promenade SW., 5th Floor East, Washington, DC 20047. Telephone: (202) 401–5587 Email: *robin.mcdonald@acf.hhs.gov.*

Earl S. Johnson,

Director, Office of Family Assistance, Administration for Children and Families.

[FR Doc. 2012–15783 Filed 6–27–12; 8:45 am]

BILLING CODE 4184–35–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[Docket No. FDA–2012–N–0021]

Agency Information Collection Activities; Submission for Office of Management and Budget Review; Comment Request; Substances Generally Recognized as Safe; Notification Procedure

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is announcing that a proposed collection of information has been submitted to the Office of Management and Budget (OMB) for review and clearance under the Paperwork Reduction Act of 1995.

DATES: Fax written comments on the collection of information by July 30, 2012.

ADDRESSES: To ensure that comments on the information collection are received, OMB recommends that written comments be faxed to the Office of Information and Regulatory Affairs, OMB, Attn: FDA Desk Officer, FAX: 202–395–7285, or emailed to *oira_submission@omb.eop.gov.* All comments should be identified with the OMB control number 0910–0342. Also include the FDA docket number found in brackets in the heading of this document.

FOR FURTHER INFORMATION CONTACT: Domini Bean, Office of Information Management, Food and Drug Administration, 1350 Piccard Dr., PI50–400T, Rockville, MD 20850, 301–796–5733, *domini.bean@fda.hhs.gov.*

SUPPLEMENTARY INFORMATION: In compliance with 44 U.S.C. 3507, FDA has submitted the following proposed collection of information to OMB for review and clearance.

Substances Generally Recognized as Safe: Notification Procedure—21 CFR 170.36 and 570.36 (OMB Control Number 0910–0342)—Revision

I. Background

Section 409 of the Federal Food, Drug, and Cosmetic Act (the FD&C Act) (21 U.S.C. 348) establishes a premarket approval requirement for ''food additives;'' section 201(s) of the FD&C Act (21 U.S.C. 321) provides an exemption from the definition of ''food additive'' and thus from the premarket approval requirement, for uses of substances that are GRAS by qualified experts. In the **Federal Register** of April 17, 1997 (62 FR 18938) (the 1997 proposed rule), FDA published a proposed rule that would establish a voluntary procedure whereby manufacturers would notify FDA about a view that a particular use (or uses) of a substance is not subject to the statutory premarket approval requirements based on a determination that such use is GRAS. The proposed regulations (proposed 21 CFR 170.36 and 21 CFR 570.36) provide a standard format for the voluntary submission of a notice. The notice would include a detailed summary of the data and information that support the GRAS determination, and the notifier would maintain a record of such data and information. FDA would make the information describing the subject of the GRAS notice, and the Agency's response to the notice, available in a publicly accessible file; the entire GRAS notice would be publicly available consistent with the Freedom of Information Act and other Federal disclosure statutes. In the **Federal Register** of December 28, 2010 (75 FR 81536) (the GRAS reopener), FDA announced the reopening of the comment period for the 1997 proposed rule. The Agency requested that comments be submitted by March 28, 2011.

FDA's Center for Food Safety and Applied Nutrition (CFSAN) has recently developed a form that prompts a notifier to include certain elements of a GRAS notice in a standard format. New Form FDA 3667 is entitled ''Generally Recognized as Safe (GRAS) Notice.'' The form, and elements that would be prepared as attachments to the form, may be submitted in electronic format via the Electronic Submissions Gateway (ESG), or may be submitted in paper format, or as electronic files on physical media with paper signature page. CFSAN expects that most if not all businesses filing GRAS notices in the next 3 years will choose to take advantage of the option of electronically submitting their GRAS notice. Thus, the burden estimate in Table 1, line 1 is based on the expectation of 100 percent participation in the electronic submission process.

FDA's Center for Veterinary Medicine (CVM) continues to comply with the GRAS Pilot Program procedures announced on June 4, 2010 (75 FR 31800).

II. GRAS Information on Form FDA 3667

The GRAS notice submitted to CFSAN includes the following information on Form FDA 3667 and in attachments to the form:

A. Introductory Information About the Submission

- Whether the GRAS notice submission is a new GRAS notice, or an amendment or supplement to a previously transmitted GRAS notice;
- Whether the notifier has determined that all files provided in an electronic transmission are free of computer viruses;
- The date of the notifier's most recent meeting with FDA before transmitting a new GRAS notice; and
- The date of any correspondence, sent to the notifier by FDA, relevant to an amendment or supplement the notifier is transmitting.

B. Information About the Notifier

- The name of and contact information for the notifier, including the identity of the contact person and the company name (if applicable); and
- The name of and contact information for any agent or attorney who is authorized to act on behalf of the notifier.

C. General Administrative Information

- The name of the substance that is the subject of the GRAS notice submission;
- The format of the submission (i.e., paper, electronic, or electronic with a paper signature page);
- The mode of transmission of any electronic submission (i.e., ESG or transmission on physical media such as CD–ROM or DVD);
- Whether the notifier is referring us to information already in our files;
- The statutory basis for the notifier's determination of GRAS status;
- Whether the notifier has designated in its submission any information as trade secret or as confidential commercial or financial information; and
- Whether the notifier has attached a redacted copy of some or all of the submission.

D. Intended Use

- The intended conditions of use of the notified substance.

E. Identity

- Information that identifies the notified substance. For example, there may be a chemical name and formula and a standardized registry number.

F. Checklist of Other Elements Not Completed Directly on Form FDA 3667

- Any additional information about identity not previously covered;
- Method of manufacture;
- Specifications for food-grade material;
- Dietary exposure;
- Self-limiting levels of use;
- Common use in food before 1958 (if applicable);
- Comprehensive discussion of the basis for the determination of GRAS status; and
- Bibliography.

Form FDA 3667 also requires the signature of a responsible official (or agent or attorney) and a list of attachments.

The information is used by FDA to evaluate whether the notice provides a sufficient basis for a conclusion of GRAS status and whether information in the notice or otherwise available to FDA raises issues of public health significance that lead the Agency to question whether use of the substance is GRAS.

III. Description of Respondents

The respondents to this collection of information are manufacturers of substances used in food and feed.

In the **Federal Register** of January 18, 2012 (77 FR 2552), FDA published a 60-day notice requesting public comment on the proposed collection of information. No comments were received.

FDA estimates the burden of this collection of information as follows:

TABLE 1—ESTIMATED ANNUAL REPORTING BURDEN [1]

21 CFR Section	FDA Form No. [2]	Number of respondents	Number of responses per respondent	Total annual responses	Average burden per response	Total hours
170.36 (CFSAN)	FDA 3667 [3]	40	1	40	150	6,000
570.36 (CVM)	N/A	20	1	20	150	3,000
Total						9,000

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.
[2] Only CFSAN uses Form FDA 3667. CVM continues to comply with the GRAS Pilot Program procedures announced on June 4, 2010 (75 FR 31800).
[3] Form FDA 3667 may be submitted electronically via the ESG.

TABLE 2—ESTIMATED ANNUAL RECORDKEEPING BURDEN [1]

21 CFR Section	Number of recordkeepers	Number of records per recordkeeper	Total annual records	Average burden per recordkeeping	Total hours
170.36(c)(v) (CFSAN)	40	1	40	15	600
570.36(c)(v) (CVM)	20	1	20	15	300
Total					900

[1] There are no capital costs or operating and maintenance costs associated with this collection of information.

As noted, CFSAN estimates that all of the future Form FDA 3667 submissions will be made electronically via the ESG. While FDA does not charge for the use of the ESG, FDA requires respondents to obtain a public key infrastructure certificate in order to set up the account. This can be obtained in-house or outsourced by purchasing a public key certificate that is valid for 1 year to 3 years. The certificate typically costs from $20–$30.

Both CFSAN and CVM receive submissions that are intended by the submitter to be GRAS notices. Not all of the submissions received contain sufficient information to be filed by the Agency as GRAS notices. In the December 28, 2010, GRAS reopener, FDA requested comment on its GRAS submission filing decision process and

described its current preliminary review process of GRAS submissions (75 FR 81536 at 81543). Therefore, the Agency is basing the following estimates on the number of GRAS notices that have been filed by the relevant Center.

In the 1997 proposed rule, FDA estimated that CFSAN would file approximately 50 GRAS notices per year and that CVM would file approximately 10 GRAS notices per year. Approval for the GRAS notification program was granted by OMB on June 16, 1997, under OMB control number 0910–0342. In 2009, FDA's estimate of the annual number of GRAS notices that will be filed by CFSAN and CVM was revised downward from the original PRA approval, based on the actual number of GRAS notices filed by CFSAN from 1998 to 2008. In 2009, FDA sought and OMB approved an estimate that CFSAN would file 25 GRAS notices and CVM would file 5 GRAS notices. On June 4, 2010, CVM announced the beginning of a GRAS Pilot Program (75 FR 31800). This notice stated that the revised estimate in the 2009 PRA approval reflected FDA's best judgment at the time as to the number of notices CVM will file annually through this pilot program.

For purposes of this extension request, CFSAN and CVM are re-evaluating their estimates of the annual number of GRAS notices that will be received by CFSAN and CVM in the next 3 years, 2012 through 2015. CFSAN filed 365 GRAS notices during the 13-year period from 1998 through 2010, for an average of approximately 28 GRAS notices per year. However, recent years have seen an increase in the number of GRAS notices filed, with 36 notices filed in both 2008 and 2009 and 55 notices in 2010. Based on an approximate average from the last 3 years, FDA is revising its estimate of the annual number of GRAS notices filed by CFSAN to be 40 or less. CFSAN expects that most if not all businesses filing GRAS notices in the next 3 years will choose to take advantage of the option of electronically submitting their GRAS notice. We expect participation to be 100 percent; thus the estimate in Table 1 is based on the burden of that experience. FDA also is revising its estimate of the annual number of GRAS notices submitted to CVM. As noted, on June 4, 2010, CVM announced the beginning of a GRAS Pilot Program. From June 2010 to October 2011, CVM filed 13 GRAS notices. Based on this experience, FDA is revising its estimate of the annual number of GRAS notices filed by CVM to be 20 or less.

In the 1997 proposed rule, FDA estimated that the notification procedures would require 150 hours per response for the reporting burdens and 15 hours per response for the recordkeeping burdens for both proposed sections (§§ 170.36 and 570.36). FDA is retaining these estimates for this request. The availability of the form, and the opportunity to provide the information in electronic format, could reduce this estimate. However, as a conservative approach for the purpose of this analysis, FDA is assuming that the availability of the form and the opportunity to submit the information in electronic format will have no effect on the average time to prepare a GRAS notification.

Dated: June 22, 2012.

Leslie Kux,

Assistant Commissioner for Policy.

[FR Doc. 2012–15811 Filed 6–27–12; 8:45 am]

BILLING CODE 4160–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Indian Health Service

Cooperative Agreements for the Office of Direct Service and Contracting Tribes Under the National Indian Health Outreach and Education Program

Announcement Type: New.

Funding Announcement Number: HHS–2012–IHS–NIHOE–0002.

Catalog of Federal Domestic Assistance Number: 93.933.

Key Dates

Application Deadline Date: August 2, 2012.

Review Date: August 15, 2012.

Earliest Anticipated Start Date: September 16, 2012.

I. Funding Opportunity Description

Statutory Authority

The Indian Health Service (IHS) is accepting applications for two limited competition cooperative agreements for the Office of Direct Service and Contracting Tribes under the National Indian Health Outreach and Education (NIHOE) program: the Behavioral Health—Methamphetamine and Suicide Prevention Intervention (MSPI) outreach and education award and the Human Immunodeficiency Virus/Acquired Immune Deficiency Syndrome (HIV/AIDS) outreach and education award. The Behavioral Health—MSPI outreach and education award is funded by IHS and is authorized under the Snyder Act, codified at 25 U.S.C. 13; the Transfer Act, codified at 42 U.S.C. 2001; the Department of the Interior, Environment, and Related Agencies Appropriations Act, 2010, Public Law 111–88; and the Consolidated Appropriations Act, 2012, Public Law 112–74. The HIV/AIDS outreach and education award is funded by the Office of the Secretary (OS), Department of Health and Human Services (HHS). Funding for the HIV/AIDS award will be provided by OS via an Intra-Departmental Delegation of Authority dated March 30, 2012 to IHS to permit obligation of funding appropriated by the Consolidated Appropriations Act, 2012, Public Law 112–74. Each award is funded through a separate funding stream by each respective agency's appropriations. The awardee is responsible for accounting for each of the two awards separately and must provide two separate financial reports (one for each award), as indicated below. This program is described in the Catalog of Federal Domestic Assistance under 93.933.

Limited Competition Announcement

This is a Limited Competition announcement. The funding levels noted include both direct and indirect costs (IDC). *See Section VI. Award Administration Information, 3. Indirect Costs.* Applicant must address both projects. Applicants must provide a separate budget for each application. Limited competition refers to a competitive funding opportunity that limits the eligibility to compete to more than one entity but less than all entities.

Limited Competition Justification

Competition for both of the awards included in this announcement is limited to national Indian health care organizations with at least ten years of experience providing education and outreach on a national scale. This limitation ensures that the awardee will have: (1) A national information-sharing infrastructure which will facilitate the timely exchange of information between HHS and Tribes and Tribal organizations on a broad scale; (2) a national perspective on the needs of American Indian/Alaska Native (AI/AN) communities that will ensure that the information developed and disseminated through the projects is appropriate, useful and addresses the most pressing needs of AI/AN communities; and (3) established relationships with Tribes and Tribal organizations that will foster open and honest participation by AI/AN communities. Regional or local organizations will not have the mechanisms in place to conduct communication on a national level, nor

will they have an accurate picture of the health care needs facing AI/ANs nationwide. Organizations with less experience will lack the established relationships with Tribes and Tribal organizations throughout the country that will facilitate participation and the open and honest exchange of information between Tribes and HHS. With the limited funds available for these projects, HHS must ensure that the education and outreach efforts described in this announcement reach the widest audience possible in a timely fashion, are appropriately tailored to the needs of AI/AN communities throughout the country, and come from a source that AI/ANs recognize and trust. For these reasons, this is a limited competition announcement.

Background

The NIHOE program carries out health program objectives in the AI/AN community in the interest of improving Indian health care for all 566 Federally-recognized Tribes including Tribal governments operating their own health care delivery systems through Indian Self-Determination and Education Assistance Act (ISDEAA) contracts and compacts with the IHS and Tribes that continue to receive health care directly from the IHS. This program addresses health policy and health programs issues and disseminates educational information to all AI/AN Tribes and villages. The NIHOE MSPI and HIV/AIDS awards require that public forums be held at Tribal educational consumer conferences to disseminate changes and updates in the latest health care information. These awards also require that regional and national meetings be coordinated for information dissemination as well as for the inclusion of planning and technical assistance and health care recommendations on behalf of participating Tribes to ultimately inform IHS and HHS based on Tribal input through a broad based consumer network.

Purpose

The purpose of these cooperative agreements is to further IHS health program objectives in the AI/AN community with expanded outreach and education efforts for the MSPI and HIV/AIDS programs on a national scale in the interest of improving Indian health care. This announcement includes two separate awards, each of which will be awarded as noted below. The purpose of the MSPI award is to further the goals of the national MSPI program. The MSPI is a national demonstration project aimed at addressing the dual problems of methamphetamine use and suicide in Indian country. The MSPI supports the use and development of evidence-based and practice-based models which are culturally appropriate prevention and treatment approaches to methamphetamine abuse and suicide in a community driven context. The six goals of the MSPI are to effectively prevent, reduce or delay the use and/or spread of methamphetamine abuse; build on the foundation of prior methamphetamine and suicide prevention and treatment efforts, in order to support the IHS, Tribes, and Urban Indian health organizations in developing and implementing Tribal and/or culturally appropriate methamphetamine and suicide prevention and early intervention strategies; increase access to methamphetamine and suicide prevention services; improve services for behavioral health issues associated with methamphetamine use and suicide prevention; promote the development of new and promising services that are culturally and community relevant; and demonstrate efficacy and impact. [**Note:** While the national MSPI program includes outreach to urban Indian organizations, outreach aimed specifically at urban Indian organizations will be addressed in a separate award announcement. However, materials developed by the grantee in the NIHOE MSPI award described in this announcement may be distributed by IHS to urban Indian organizations, at the discretion of the Agency.]

The purpose of the HIV/AIDS award is to further the goals of the national HIV/AIDS program. HIV and AIDS are a critical and growing health issue within the AI/AN population. The IHS National HIV/AIDS Program seeks to avoid complacency and to increase awareness of the impact of HIV/AIDS on AI/ANs. All activities are part of the IHS's implementation plan to meet the three goals of the President's National HIV/AIDS Strategy (NHAS) to: Reduce the number of people who become infected with HIV, increase access to care and optimize health outcomes for people living with HIV, and reduce HIV-related disparities. AI/ANs are ranked third in the nation in the rate of HIV/AIDS diagnosis compared to all other races and ethnicities. This population also faces additional health disparities that contribute significantly to the risk of HIV transmission such as substance abuse and sexually transmitted infections. Amongst AI/AN people, HIV/AIDS exists in both urban and rural populations (and on or near Tribal lands); however, many of those living with HIV are not aware of their status. These statistics, risk factors, and missed opportunities for screening illuminate the need to go beyond raising awareness about HIV and begin active integration of initiatives that will help routinize HIV services. If the status quo is unchanged, prevalence will continue to increase and AI/AN communities may face an irreversible problem. Therefore, the National HIV/AIDS Program is working to change the way HIV is discussed to change and improve the way HIV testing is integrated into health services, and to firmly establish linkages and access to care. The IHS HIV/AIDS Program is implemented and executed via an integrated and comprehensive approach through collaborations across multi-health sectors, both internal and external to the agency. It attempts to encompass all types of service delivery 'systems' including IHS/Tribal/Urban (I/T/U) facilities. The IHS HIV/AIDS Program is committed to realizing the goals of the President's NHAS and has bridged the objectives and implementation to the IHS HIV/AIDS Strategic Plan.

II. Award Information

Type of Award

Cooperative Agreements.

Estimated Funds Available

The total amount of funding identified for fiscal year (FY) 2012 is approximately $250,000 to fund two cooperative agreements for one year; $150,000 will be awarded for the Behavioral Health-MSPI award and $100,000 will be awarded for the for HIV/AIDS award.

The awards under this announcement *are subject to the availability of funds and performance.*

Anticipated Number of Awards

Two awards will be issued under this program announcement. It is the intention of IHS and OS that one entity will receive both awards. OS and IHS will concur on the final decision as to who will receive both awards.

Project Period

The project periods for each award will be for 1 year and will run from September 30, 2012 with completion by September 29, 2013.

Cooperative Agreement

In the Department of Health and Human Services (HHS), a cooperative agreement is administered under the same policies as a grant. The funding agencies (IHS and OS) are required to

have substantial programmatic involvement in the projects during the entire award segment. Below is a detailed description of the level of involvement required for both agencies and the grantee. IHS and OS, through IHS, will be responsible for activities listed under section A and the grantee will be responsible for activities listed under section B as stated:

Substantial Involvement Description for Cooperative Agreement

A. IHS Programmatic Involvement

The IHS assigned program official will monitor the overall progress of the awardee's execution of the requirements of the two awards: IHS award and the OS award noted below as well as their adherence to the terms and conditions of the cooperative agreements. This includes providing guidance for required reports, development of tools, and other products, interpreting program findings, and assistance with evaluation and overcoming any slippages encountered. The IHS assigned program official must approve all presentations, electronic content, and other materials, including mass emails, developed by awardee pursuant to these awards and any supplemental awards prior to the presentation or dissemination of such materials to any party.

(1) Behavioral Health—MSPI award:

(1) The IHS assigned program official will work in partnership with the awardee to identify and provide presentation topics on MSPI for the annual IHS Division of Behavioral Health (DBH) Conference; the annual IHS MSPI Conference; National Tribal Advisory Committee meetings; and the DBH Behavioral Health Work Group.

(2) The IHS assigned program official will work in partnership with the awardee to identify MSPI projects in need of technical assistance.

(3) The IHS assigned program official will provide project reports as needed to the awardee for review and to inform about the technical assistance to be provided by the awardee.

(2) HIV/AIDS Award:

IHS staff will be providing support for the HIV/AIDS award as follows:

(a) The IHS assigned program official will work in partnership with the awardee in all decisions involving strategy, hiring of grantee personnel, deployment of resources, release of public information materials, quality assurance, coordination of activities, any training, reports, budget, and evaluation. Collaboration includes data analysis, interpretation of findings, and reporting.

(c) The IHS assigned program official will work closely with OS and all participating IHS health services/programs, as appropriate, to coordinate award activities.

(d) The IHS assigned program official will coordinate the following for OS and the participating IHS program offices and staff:

- Discussion and release of any and all special grant conditions upon fulfillment.
- Monthly scheduled conference calls.
- Appropriate dissemination of required reports to each participating program.

(e) The IHS will, jointly with the awardee, plan and set an agenda for each of the conferences mentioned in this announcement that:

- Shares the training and/or accomplishments.
- Fosters collaboration amongst the participating program offices, agencies, and/or departments.
- Increases visibility for the partnership between the awardee and the IHS and OS.

(f) IHS will provide guidance in addressing deliverables and requirements.

(g) IHS will provide guidance in preparing articles for publication and/or presentations of program successes, lessons learned, and new findings.

(h) IHS will communicate via monthly conference calls, individual or collective site visits, and monthly meetings.

(i) IHS staff will review articles concerning the HHS, OS, and the Agency for accuracy and may, as requested by the awardee, provide relevant articles.

(j) IHS will provide technical assistance to the entity as requested.

(k) IHS staff may, at the request of the entity's board, participate on study groups and may recommend topics for analysis and discussion.

B. Grantee Cooperative Agreement Award Activities

The awardee is responsible for the following in addition to fulfilling all requirements noted for each award component: MSPI and HIV/AIDS.

(1) To succinctly and independently address the requirements for each of the two awards listed below: Behavioral Health—MSPI and HIV/AIDS.

(2) To facilitate a forum or forums at which concerns can be heard that are representative of all Tribal governments in the area of health care policy analysis and program development for each of the two components listed above.

(3) To assure that health care outreach and education is based on Tribal input through a broad-based consumer network involving the Area Indian health boards or health board representatives from each of the twelve IHS Areas.

(4) To establish relationships with other national Indian organizations, with professional groups, and with Federal, State, and local entities supportive of AI/AN health programs.

(5) To improve and expand access for AI/AN Tribal governments to all available programs within the HHS.

(6) To disseminate timely health care information to Tribal governments, AI/AN health boards, other national Indian organizations, professional groups, Federal, State, and local entities.

(7) To provide periodic dissemination of health care information, including publication of a newsletter four times a year that features articles on MSPI and HIV/AIDS health promotion/disease/behavioral health prevention activities and models of best or promising practices, health policy, and funding information relevant to AI/AN, etc.

The following schedule of deliverables outlines the requirements necessary to effectuate timely and effective support services to Tribal MSPI projects:

Summary of Tasks To Be Performed

MSPI:

- The awardee shall provide culturally competent educational and technical assistance related to the prevention and treatment of methamphetamine addiction and suicide to Tribal MSPI projects at national meetings and through conference calls. The awardee shall attend designated national meetings and provide educational workshops and general technical assistance specific to MSPI Tribal projects using funding associated with this award. Additional funding for travel is not authorized. Meeting attendance shall include at minimum: The annual IHS DBH Behavioral Health Conference; the annual IHS MSPI Conference; National Tribal Advisory Committee meetings; and the DBH Behavioral Health Work Group.
- The awardee shall provide workshops on topics of particular importance to Tribal MSPI projects at the annual DBH Behavioral Health Conference. Topics will be discussed prior to the meeting and will focus on the needs of Tribal MSPI projects; topics will be subject to approval from the IHS assigned program official. Topics should include youth services, youth methamphetamine use and suicide prevention, Tribal promising practices, etc.

• The awardee shall also provide relevant and timely evidence-based and practice-based information for Tribal MSPI programs.

• The awardee shall attend and conduct workshops and/or presentations at the annual DBH MSPI Conference on evidence-based and practice-based practices effective in preventing suicide and methamphetamine use in Indian country (to be agreed upon by awardee and the IHS assigned program official).

• The awardee shall conduct workshops and/or presentations including, but not limited to, challenges, potential solutions, and successes in the form of promising practices of Tribal MSPI projects at one national conference (venue and content of presentations to be agreed upon by the awardee and the IHS assigned program official).

• The awardee shall provide in-person Tribal MSPI program updates, focusing on practice-based and promising practices at face-to-face meetings of the DBH National Tribal Advisory Committee and the DBH Behavioral Health Work Group.

• The awardee shall develop, maintain, and disseminate information regarding MSPI with a special focus on the relevance to Tribal communities, working in consultation with the IHS assigned program official in determining the information most useful to Tribal MSPI projects.

• The awardee shall provide comprehensive information on MSPI prevention programs, curricula, findings, and strategies to all Tribal MSPI programs, and:

• Present the information at conference and meeting booths as described above.

• Post and maintain methamphetamine and suicide prevention-related information on its organizational Web site, the MSPI portal and otherwise make materials accessible to Tribal MSPI projects.

• Develop a comprehensive list of evidence-based and practice-based programs for use by Tribal MSPI projects.

• Coordinate with DBH staff and other Federal agencies to develop and disseminate promotional materials geared toward positive messaging to Tribal communities who are addressing suicide and methamphetamine issues.

• Provide and update monthly promotional materials on Web sites for access by Tribal MSPI projects.

• The awardee shall, in collaboration with the IHS assigned program official, provide expert guidance in the areas of practice-based and evidence-based practice implementation and culturally-appropriate traditional practices regarding methamphetamine and suicide prevention with a special focus on Indian youth. The awardee shall provide to the IHS assigned program official written documentation of the assistance provided to the projects.

• The awardee shall provide one-on-one technical assistance and progress report review to 25 percent of MSPI projects, identified by the IHS assigned program official as having program implementation issues (i.e. program development and administration issues, implementing practice-based practices/evidence-based practices/culturally relevant traditional methods issues, or program marketing challenges).

• The technical assistance provided by the awardee shall consist of email and phone conversations with the MSPI project staff, expert guidance for specific implementation concerns, and work with the MSPI project to identify challenges and solutions, etc. The awardee shall develop an MSPI orientation guide for tribal programs including information identified by the DBH MSPI Project Officer Team (i.e. MSPI requirements, programmatic guidance, resources relating to methamphetamine and suicide, etc.).

• The awardee shall participate in at least 90 percent of the MSPI Area conference calls facilitated by the IHS assigned program official. The awardee must be included on the agenda and provide presentations on specific areas of interest identified by the Tribal MSPI programs/IHS assigned program official. PowerPoint slides will be approved prior to the presentation and will be made available on the awardee's organizational Web site and the MSPI portal.

• The awardee shall identify and provide education, assistance, and recommendations to MSPI projects regarding one special population per year for the life of the award (e.g., youth; elderly; lesbian, gay, bisexual and transgender; disabled, etc.).

• The awardee shall provide semi-annual reports documenting and describing progress and accomplishment of the activities specified above.

• The awardee shall attend bi-weekly, regularly scheduled, in-person and conference call meetings with the IHS assigned program official team to discuss the awardee's services and MSPI related issues. The awardee must provide meeting minutes that highlight the awardee's specific involvement and participation.

• The awardee shall provide expert guidance to the IHS assigned program official specifically regarding Tribal programs.

• The awardee shall help the IHS assigned program official identify challenges faced by participating Tribal communities and assist in developing solutions.

• The awardee shall provide a semi-annual and annual progress report to IHS, attaching any necessary documentation to adequately document accomplishments.

• The awardee shall obtain approval from the IHS assigned program official of all presentations, electronic content, and other materials, including mass emails, developed by awardee pursuant to this awards and any supplemental awards prior to the presentation or dissemination of such materials to any party, allowing for a reasonable amount of time for IHS review.

Deliverables:

• Evidence of workshops and/or presentations provided at the:

(a) Annual IHS Behavioral Health Conference;

(b) Annual MSPI Conference;

(c) National Tribal Advisory Committee meeting(s); and

(d) IHS Behavioral Health Work Group meetings.

(PowerPoint slides in electronic form and one hard copy are to be submitted to the program official and the IHS assigned program official as required).

• Copies of educational and practice-based information provided to Tribal MSPI programs.

• Copies of all promotional and educational materials provided to Tribal MSPI programs and other projects (electronic form and one hard copy).

• Evidence of posting of MSPI-related information on organizational Web sites.

• Documentation of dissemination of culturally-informed promotional materials geared toward positive messaging to Tribal communities.

• Finalized list of evidence-based and practice-based programs for use by Tribal MSPI projects.

• Evidence of one-on-one technical assistance to projects identified as having program implementation issues (meeting minutes, brief report including at a minimum, the description of the problem, resources provided and action plan).

• Completed programmatic reviews of semi and annual progress reports of 25 percent of the Tribal MSPI projects, in order to identify programs that require technical assistance. [Note: This review is not to replace IHS review of MSPI programs. The programmatic reviews to be conducted by grantee are secondary reviews intended solely to identify programs in need of technical assistance.]

• Completed orientation guide to be submitted to the IHS assigned program official.

• Participation on no less than 90 percent of the MSPI Area conference calls facilitated by the IHS assigned program official, evidenced by meeting agenda and minutes.

• Attendance at regularly scheduled meetings between awardee and the IHS assigned program official, evidenced by meeting minutes which highlight the awardee's specific involvement and participation.

• Semi-annual and annual progress reports to DBH, due no later than 30 days after the reporting cycle, attaching any necessary documentation. For example: meeting minutes, correspondence with Tribal programs, samples of all written materials developed including brochures, news articles, videos, radio and television ads to adequately document accomplishments.

HIV/AIDS

In alignment with the above program and independent from MSPI activities (both via fiscal resources and programmatic implementation), the awardee shall:

• Disseminate existing HIV/AIDS messages to AI/AN audiences in a format designed to solicit, collect, and report on community-level feedback and generate discussion regarding the disease and its prevention. This may include electronic and emerging means of communication. At least four distinct audiences (such as women, young people, etc.) will be addressed and engaged. Preference will be given to reaching audiences with the highest HIV burden or potential increases as supported by the NHAS.

• Disseminate existing IHS HIV/AIDS program and other HIV/AIDS training materials to educators, health care providers, and other key audiences. Collect and report on relevant evaluation criteria, including impacts on underlying knowledge, attitudes, or beliefs about HIV acquisition, testing, or treatment.

• Design and launch an HIV/AIDS technical assistance and activity support program. Engage in documented partnerships with AI/AN communities to expand their capacity relevant to HIV/AIDS education and prevention efforts. Local activity support may include subawards of resources and distribution of incentives to qualified AI/AN-serving community organizations increasing HIV/AIDS education and prevention in their populations. Subaward eligibility standards and management controls will be proposed by the awardee and will be subject to IHS approval. These activities must be conducted in accordance with federal grant policies and procedures. Awardee will collect and maintain relevant evaluation materials and generate reports that highlight progress towards the President's NHAS goals on the community level and that collect best practices for dissemination to other communities.

• Contribute technical expertise to the IHS HIV/AIDS program and develop formal written documents responding to information requests from the public regarding HIV/AIDS initiatives.

• Develop and launch anti-stigma messaging for at least one audience, coordinated with other local activities to: increase HIV screening; increase access to services, or increase positive role modeling for people living with, or at risk of, acquiring HIV/AIDS.

• Support and document issue-specific discussions with Tribal Leaders as appropriate to address effective prevention interventions for AI/AN populations as noted in the President's NHAS.

• Obtain approval from the IHS assigned program official of all presentations, electronic content, and other materials, including mass emails, developed by awardee pursuant to this award and any supplemental awards prior to the presentation or dissemination of such materials to any party, allowing for a reasonable amount of time for IHS review.

III. Eligibility Information

1. Eligibility

Eligible applicants include 501(c)(3) non-profit entities who meet the following criteria.

Eligible applicants that can apply for this funding opportunity are National Indian Organizations.

The National Indian Organization must have the infrastructure in place to accomplish the work under the proposed program.

Eligible entities must have demonstrated expertise in the following areas:

• Representing all Tribal governments and providing a variety of services to Tribes, Area health boards, Tribal organizations, and Federal Agencies, and playing a major role in focusing attention on Indian health care needs, resulting in improved health outcomes for AI/ANs.

• Promotion and support of Indian education, and coordinating efforts to inform AI/AN of Federal decisions that affect Tribal government interests including the improvement of Indian health care.

• National health policy and health programs administration.

• Have a national AI/AN constituency and clearly support critical services and activities within the IHS mission of improving the quality of health care for AI/AN people.

• Portray evidence of their solid support of improved health care in Indian Country.

• Provide evidence of at least ten years of experience providing education and outreach on a national scale.

Note: Please refer to Section IV.2 (Application and Submission Information/ Subsection 2, Content and Form of Application Submission) for additional proof of applicant status documents required, such as proof of non-profit status, etc.

2. Cost Sharing or Matching

The Indian Health Service does not require matching funds or cost sharing for grants or cooperative agreements.

3. Other Requirements

If application budgets exceed the highest dollar amount outlined under the ''Estimated Funds Available'' section within this funding announcement, your application will be considered ineligible and will not be reviewed for further consideration. IHS will not return your application to you. You will be notified by email or certified mail by the Division of Grants Management of this decision.

Applications addressing other projects will be considered ineligible and will be returned to the applicant. Health board resolution must be submitted if applicable.

Proof of Non-Profit Status

Organizations claiming non-profit status must submit proof. A copy of the 501(c)(3) Certificate must be received with your application submission by the deadline due date of July 16, 2012.

Letters of Intent will not be required under this funding opportunity announcement.

Applicants submitting any of the above additional documentation after the initial application submission due date are required to ensure the information was received by the IHS by obtaining documentation confirming delivery (i.e. FedEx tracking, postal return receipt, etc.).

IV. Application and Submission Information

1. Obtaining Application Materials

The application package and detailed instructions for this announcement can be found at *http://www.Grants.gov* or *http://www.ihs.gov/NonMedical*

Programs/gogp/index.cfm?module=gogp_funding

Questions regarding the electronic application process may be directed to Paul Gettys at (301) 443–2114.

2. Content and Form Application Submission

The applicant must include the project narrative as an attachment to the application package. Mandatory documents for all applicants include:

- Table of contents.
- Abstract (one page) summarizing the project.
- Application forms:
  - SF–424, Application for Federal Assistance.
  - SF–424A, Budget Information—Non-Construction Programs.
  - SF–424B, Assurances—Non-Construction Programs.
- Budget Justification and Narrative (must be single spaced and not exceed 5 pages).
- Project Narrative (must not exceed 20 pages).
  - Background information on the organization.
  - Proposed scope of work, objectives, and activities that provide a description of what will be accomplished, including a one-page Timeframe Chart.
- Tribal Resolution or Tribal Letter of Support (Tribal Organizations only).
- Letter of Support from Organization's Board of Directors.
- 501(c)(3) Certificate (if applicable)
- Biographical sketches for all Key Personnel.
- Contractor/Consultant resumes or qualifications and scope of work.
- Disclosure of Lobbying Activities (SF–LLL).
- Certification Regarding Lobbying (GG–Lobbying Form).
- Copy of current Negotiated Indirect Cost rate (IDC) agreement (required) in order to receive IDC.
- Organizational Chart (optional).
- Documentation of current OMB A–133 required Financial Audit (if applicable). Acceptable forms of documentation include:
  - Email confirmation from Federal Audit Clearinghouse (FAC) that audits were submitted; or
  - Face sheets from audit reports. These can be found on the FAC Web site: *http://harvester.census.gov/sac/dissem/accessoptions.html?submit=Go+To+Database.*

Public Policy Requirements

All Federal-wide public policies apply to IHS grants with exception of the Discrimination policy.

Requirements for Project and Budget Narratives

A. Project Narrative: This narrative should be a separate Word document that is no longer than 20 pages and must: Be single-spaced, be type written, have consecutively numbered pages, use black type not smaller than 12 characters per one inch, and be printed on one side only of standard size 8½″ x 11″ paper.

Be sure to succinctly answer all questions listed under the evaluation criteria (refer to Section V.1, Evaluation criteria in this announcement) and place all responses and required information in the correct section (noted below), or they will not be considered or scored. These narratives will assist the ORC in becoming more familiar with the grantee's activities and accomplishments prior to this possible grant award. If the narrative exceeds the page limit, only the first 20 pages will be reviewed. The 20-page limit for the narrative does not include the work plan, standard forms, Tribal resolutions, table of contents, budget, budget justifications, narratives, and/or other appendix items.

There are three parts to the narrative: Part A—Program Information; Part B—Program Planning and Evaluation; and Part C—Program Report. See below for additional details about what must be included in the narrative.

Proposals should provide separate narratives and budgets for the two portions of the cooperative agreement: one for HIV and one for MSPI.

Part A: Program Information 3 Pages per Program

Section 1: Needs

Describe how the National Indian Organization has the experience to provide outreach and education efforts on a continuum basis regarding the pertinent changes and updates in health care for each of the two components listed herein: MSPI and HIV/AIDS.

Part B: Program Planning and Evaluation 5 Pages per Program

Section 1: Program Plans

Describe fully and clearly the direction the National Indian Organization plans to address the NIHOE II MSPI and HIV/AIDS requirements, including how the National Indian Organization plans to demonstrate improved health education and outreach services to all 566 Federally-recognized tribes for each of the two components described herein.

Section 2: Program Evaluation

Describe fully and clearly how the outreach and education efforts will impact changes in knowledge and awareness in tribal communities regarding both components. Identify anticipated or expected benefits for the tribal constituency.

Part C: Program Report 2 Pages per Program

Section 1: Describe Major Accomplishments Over the Last 24 Months

Identify and describe significant program achievements associated with the delivery of quality health outreach and education. Provide a comparison of the actual accomplishments to the goals established for the project period for both components, or if applicable, provide justification for the lack of progress.

Section 2: Describe Major Activities Over the Last 24 Months

Identify and summarize recent major health related outreach and education project activities of the work performed for both components during the last project period.

B. Budget Narrative: This narrative must describe the budget requested and match the scope of work described in the project narrative. The budget narrative should not exceed 5 pages.

3. Submission Dates and Times

Applications must be submitted electronically through Grants.gov by 12:00 a.m., midnight Eastern Daylight Time (EDT) on August 2, 2012. Any application received after the application deadline will not be accepted for processing, nor will it be given further consideration for funding. You will be notified by the Division of Grants Management via email or certified mail of this decision.

If technical challenges arise and assistance is required with the electronic application process, contact Grants.gov Customer Support via email to *support@grants.gov* or at (800) 518–4726. Customer Support is available to address questions 24 hours a day, 7 days a week (except on Federal holidays). If problems persist, contact Paul Gettys, Division of Grants Management (DGM) (*Paul.Gettys@ihs.gov*) at (301) 443–5204. Please be sure to contact Mr. Gettys at least ten days prior to the application deadline. Please do not contact the DGM until you have received a Grants.gov tracking number. In the event you are not able to obtain a tracking number, call the DGM as soon as possible.

If an applicant needs to submit a paper application instead of submitting electronically via Grants.gov, prior approval must be requested and obtained (see Section IV.6 below for additional information). The waiver must be documented in writing (emails are acceptable), *before* submitting a paper application. A copy of the written approval must be submitted along with the hardcopy that is mailed to the DGM. Once your waiver request has been approved, you will receive a confirmation of approval and the mailing address to submit your application. Paper applications that are submitted without a waiver from the Acting Director of DGM will not be reviewed or considered further for funding. You will be notified via email or certified email of this decision by the Grants Management Officer of DGM. Paper applications must be received by the DGM no later than 5 p.m., EDT, on the application deadline date. Late applications will not be accepted for processing or considered for funding.

Other Important Due Dates

Proof of Non-Profit Status: Due date August 2, 2012.

4. Intergovernmental Review

Executive Order 12372 requiring intergovernmental review is not applicable to this program.

5. Funding Restrictions

- Pre-award costs are not allowable.
- The available funds are inclusive of direct and appropriate indirect costs.
- IHS will not acknowledge receipt of applications.

6. Electronic Submission Requirements

All applications must be submitted electronically. Please use the *http://www.Grants.gov* Web site to submit an application electronically and select the ''Find Grant Opportunities'' link on the homepage. Download a copy of the application package, complete it offline, and then upload and submit the completed application via the *http://www.Grants.gov* Web site. Electronic copies of the application may not be submitted as attachments to email messages addressed to IHS employees or offices.

Applicants that receive a waiver to submit paper application documents must follow the rules and timelines that are noted below. The applicant must seek assistance at least ten days prior to the application deadline.

Applicants that do not adhere to the timelines for Central Contractor Registry (CCR) and/or *http://www.Grants.gov* registration or that fail to request timely assistance with technical issues will not be considered for a waiver to submit a paper application.

Please be aware of the following:

- Please search for the application package in *http://www.Grants.gov* by entering the CFDA number or the Funding Opportunity Number. Both numbers are located in the header of this announcement.
- If you experience technical challenges while submitting your application electronically, please contact Grants.gov Support directly at: *support@grants.gov* or (800) 518–4726. Customer Support is available to address questions 24 hours a day, 7 days a week (except on Federal holidays).
- Upon contacting Grants.gov, obtain a tracking number as proof of contact. The tracking number is helpful if there are technical issues that cannot be resolved and waiver from the agency must be obtained.
- If it is determined that a waiver is needed, you must submit a request in writing (emails are acceptable) to *GrantsPolicy@ihs.gov* with a copy to *Tammy.Bagley@ihs.gov.* Please include a clear justification for the need to deviate from our standard electronic submission process.
- If the waiver is approved, the application should be sent directly to the DGM by the deadline date of August 2, 2012.
- Applicants are strongly encouraged not to wait until the deadline date to begin the application process through Grants.gov as the registration process for CCR and Grants.gov could take up to fifteen working days.
- Please use the optional attachment feature in Grants.gov to attach additional documentation that may be requested by the DGM.
- All applicants must comply with any page limitation requirements described in this Funding Announcement.
- After you electronically submit your application, you will receive an automatic acknowledgment from Grants.gov that contains a Grants.gov tracking number. The DGM will download your application from Grants.gov and provide necessary copies to the appropriate agency officials. Neither the DGM nor the Office of Direct Service and Contracting Tribes will notify applicants that the application has been received.
- Email applications will not be accepted under this announcement.

Dun and Bradstreet (D&B) Data Universal Numbering System (DUNS)

All IHS applicants and grantee organizations are required to obtain a DUNS number and maintain an active registration in the CCR database. The DUNS number is a unique 9-digit identification number provided by D&B which uniquely identifies your entity. The DUNS number is site specific; therefore, each distinct performance site may be assigned a DUNS number. Obtaining a DUNS number is easy, and there is no charge. To obtain a DUNS number, you may access it through *http://fedgov.dnb.com/webform,* or to expedite the process, call (866) 705–5711.

Effective October 1, 2010, all HHS recipients were asked to start reporting information on subawards, as required by the Federal Funding Accountability and Transparency Act of 2006, as amended (''Transparency Act'').

Accordingly, all IHS grantees must notify potential first-tier subrecipients that no entity may receive a first-tier subaward unless the entity has provided its DUNS number to the prime grantee organization. This requirement ensures the use of a universal identifier to enhance the quality of information available to the public pursuant to the ''Transparency Act.''

Central Contractor Registry (CCR)

Organizations that have not registered with CCR will need to obtain a DUNS number first and then access the CCR online registration through the CCR home page at *https://www.bpn.gov/ccr/default.aspx* (U.S. organizations will also need to provide an Employer Identification Number from the Internal Revenue Service that may take an additional 2–5 weeks to become active). Completing and submitting the registration takes approximately one hour to complete and your CCR registration will take 3–5 business days to process. Registration with the CCR is free of charge. Applicants may register online at *https://www.bpn.gov/ccrupdate/NewRegistration.aspx.*

Additional information on implementing the Transparency Act, including the specific requirements for DUNS and CCR, can be found on the IHS Grants Management, Grants Policy Web site: *http://www.ihs.gov/NonMedicalPrograms/gogp/index.cfm?module=gogp_policy_topics.*

V. Application Review Information

The instructions for preparing the application narrative also constitute the evaluation criteria for reviewing and scoring the application. Weights assigned to each section are noted in parentheses. The twenty page narrative should include only the first year of activities. The narrative section should be written in a manner that is clear to

outside reviewers unfamiliar with prior related activities of the applicant. It should be well organized, succinct, and contain all information necessary for reviewers to understand the project fully. Points will be assigned to each evaluation criteria adding up to a total of 100 points. A minimum score of 60 points is required for funding. Points are assigned as follows:

1. Evaluation Criteria

Part A: Program Information Needs (15 points)
Part B: Program Planning and Evaluation
Program Plans (40 points)
Program Evaluation (20 points)
Part C: Program Report (15 points)
Budget Narrative (10 points)

The instructions for preparing the application narrative also constitute the evaluation criteria for reviewing and scoring the application. Weights assigned to each section are noted in parentheses. Points will be assigned to each evaluation criteria adding up to a total of 100 points.

Part A: Program Information:

Project Narrative

A. Abstract—One page summarizing project (narrative).
B. Criteria.

1. Introduction and Need for Assistance (15 points)

(a) Describe the organization's current health, education and technical assistance operations as related to the broad spectrum of health needs of the AI/AN community. Include what programs and services are currently provided (i.e., Federally-funded, State-funded, etc.), and identify any memorandums of agreement with other national, Area or local Indian health board organizations. This could also include HHS' agencies that rely on the applicant as the primary gateway organization that is capable of providing the dissemination of health information. Include information regarding technologies currently used (i.e., hardware, software, services, Web sites, etc.), and identify the source(s) of technical support for those technologies (i.e., in-house staff, contractors, vendors, etc.). Include information regarding how long the applicant has been operating and its length of association/partnerships with Area health boards, etc. [historical collaboration].

(b) Describe the organization's current technical assistance ability. Include what programs and services are currently provided, programs and services projected to be provided, and describe any memorandums of agreement with other national Indian organizations that deem the applicant as the primary source of health policy information for AI/ANs, or any other memorandums of agreement with other Area Indian health boards, etc.

(c) Describe the population to be served by the proposed projects. Are they hard to reach? Are there barriers? Include a description of the number of Tribes who currently benefit from the technical assistance provided by the applicant.

(d) Describe the geographic location of the proposed project including any geographic barriers experienced by the recipients of the technical assistance to the health care information provided.

(e) Identify all previous IHS cooperative agreement awards received, dates of funding and summaries of the projects' accomplishments. State how previous cooperative agreement funds facilitated education, training and technical assistance nationwide for AI/ANs. (Copies of reports will not be accepted.)

(f) Describe collaborative and supportive efforts with national, Area, and local Indian health boards.

(g) Explain the need/reason for your proposed projects by identifying specific gaps or weaknesses in services or infrastructure that will be addressed by the proposed projects. Explain how these gaps/weaknesses were discovered. If the proposed projects include information technology (i.e., hardware, software, etc.), provide further information regarding measures taken or to be taken that ensure the proposed projects will not create other gaps in services or infrastructure (i.e., IHS interface capability, Government Performance Results Act reporting requirements, contract reporting requirements, information technology compatibility, etc.), if applicable.

(h) Describe the effect of the proposed project on current programs (i.e., Federally-funded, State funded, etc.) and, if applicable, on current equipment (i.e., hardware, software, services, etc.). Include the effect of the proposed projects on planned/anticipated programs and/or equipment.

(i) Describe how the projects relate to the purpose of the cooperative agreement by addressing the following: Identify how the proposed project will address national Indian health care outreach and education regarding various health data listed, e.g. MSPI and HIV and AIDS, dissemination, training, and technical assistance, etc.

Part B: Program Planning And Evaluation:

Section 1: Program Plans:

2. Project Objective(s), Workplan and Consultants (40 points)

(a) Identify the proposed project objective(s) for each of the two projects, as applicable, addressing the following:

- Measurable and (if applicable) quantifiable.
- Results oriented.
- Time-limited.

Example: Issue four quarterly newsletters, provide alerts and quantify number of contacts with Tribes.

Goals must be clear and concise.

(b) Address how the proposed projects will result in change or improvement in program operations or processes for each proposed project objective for the selected projects. Also address what tangible products, if any, are expected from the project, (i.e. legislative analysis, policy analysis, Annual Consumer Conference, mid-year conferences, summits, etc.).

(c) Address the extent to which the proposed projects will provide, improve, or expand services that address the need(s) of the target population. Include a strategic plan and business plan currently in place that are being used that will include the expanded services. Include the plan(s) with the application submission.

(d) Submit a work plan in the Appendix that:

- Provides the action steps on a timeline for accomplishing each of the projects' proposed objective(s).
- Identifies who will perform the action steps.
- Identifies who will supervise the action steps taken.
- Identifies what tangible products will be produced during and at the end of the proposed project objective(s).
- Identifies who will accept and/or approve work products during the duration of the proposed projects and at the end of the proposed projects.
- Identifies any training that will take place during the proposed projects and who will be attending the training.
- Identifies evaluation activities proposed in the work plans.

(e) If consultants or contractors will be used during the proposed project, please include the following information in their scope of work (or note if consultants/contractors will not be used):

- Educational requirements.
- Desired qualifications and work experience.
- Expected work products to be delivered on a timeline.

If a potential consultant/contractor has already been identified, please include a résumé in the Appendix.

(f) Describe what updates will be required for the continued success of the proposed project. Include when these updates are anticipated and where funds will come from to conduct the update and/or maintenance.

Section 2: Program Evaluation:

Project Evaluation (20 points)

Each proposed objective requires an evaluation component to assess its progress and ensure its completion. Also, include the evaluation activities in the work plan.

Describe the proposed plan to evaluate both outcomes and process. Outcome evaluation relates to the results identified in the objectives, and process evaluation relates to the work plan and activities of the project.

(a) For outcome evaluation, describe:

- What will the criteria be for determining success of each objective?
- What data will be collected to determine whether the objective was met?
- At what intervals will data be collected?
- Who will collect the data and their qualifications?
- How will the data be analyzed?
- How will the results be used?

(b) For process evaluation, describe:

- How will the projects be monitored and assessed for potential problems and needed quality improvements?
- Who will be responsible for monitoring and managing project improvements based on results of ongoing process improvements and what are their qualifications?
- How will ongoing monitoring be used to improve the projects?
- Describe any products, such as manuals or policies, that might be developed and how they might lend themselves to replication by others.
- How will the organization document what is learned throughout the projects' grant periods?

(c) Describe any evaluation efforts planned after the grant period has ended.

(d) Describe the ultimate benefit to the AI/AN population served by the applicant organization that will be derived from these projects.

Part C: Program Report

Section 1: Describe Major Accomplishments Over the Last 24 Months

Section 2: Describe Major Activities Over the Last 24 Months

Organizational Capabilities and Qualifications (15 points)

This section outlines the broader capacity of the organization to complete the project outlined in the work plan. It includes the identification of personnel responsible for completing tasks and the chain of responsibility for successful completion of the projects outlined in the work plans.

(a) Describe the organizational structure of the organization beyond health care activities, if applicable.

(b) Describe the ability of the organization to manage the proposed projects. Include information regarding similarly sized projects in scope and financial assistance, as well as other cooperative agreements/grants and projects successfully completed.

(c) Describe what equipment (i.e., fax machine, phone, computer, etc.) and facility space (i.e., office space) will be available for use during the proposed projects. Include information about any equipment not currently available that will be purchased through the cooperative agreement/grant.

(d) List key personnel who will work on the projects. Include title used in the work plans. In the Appendix, include position descriptions and résumés for all key personnel. Position descriptions should clearly describe each position and duties, indicating desired qualifications and experience requirements related to the proposed project. Résumés must indicate that the proposed staff member is qualified to carry out the proposed project activities. If a position is to be filled, indicate that information on the proposed position description.

(e) If personnel are to be only partially funded by this cooperative agreement, indicate the percentage of time to be allocated to this project and identify the resources used to fund the remainder of the individual's salary.

Budget Narrative:

Categorical Budget and Budget Justification (10 points)

This section should provide a clear estimate of the program costs and justification for expenses for the entire cooperative agreement period for each award. The budgets and budget justifications should be consistent with the tasks identified in the work plans. Because each of the two awards included in this announcement are funded through separate funding streams, the applicant must provide a separate budget and budget narrative for each of the two components and must account for costs separately.

(a) Provide a categorical budget for each of the 12-month budget periods requested for each of the two projects.

(b) If IDC are claimed, indicate and apply the current negotiated rate to the budget. Include a copy of the rate agreement in the Appendix. *See Section VI. Award Administration Information, 3. Indirect Costs.*

(c) Provide a narrative justification explaining why each line item is necessary/relevant to the proposed project. Include sufficient costs and other details to facilitate the determination of cost allowability (i.e., equipment specifications, etc.).

Appendix Items

- Work plan, logic model and/or time line for proposed objectives.
- Position descriptions for key staff.
- Résumés of key staff that reflect current duties.
- Consultant or contractor proposed scope of work and letter of commitment (if applicable).
- Current Indirect Cost Agreement.
- Organizational chart(s) highlighting proposed project staff and their supervisors as well as other key contacts within the organization and key community contacts.
- Map of area to benefit project identifying where target population resides and project location(s). Include trails, parks, schools, bike paths and other such applicable information.
- Additional documents to support narrative (i.e. data tables, key news articles, etc.).

1. Review and Selection

Each application will be prescreened by the DGM staff for eligibility and completeness as outlined in the funding announcement. Incomplete applications and applications that are non-responsive to the eligibility criteria will not be referred to the Objective Review Committee (ORC). Applicants will be notified by DGM, via email or letter, to outline minor missing components (i.e., signature on the SF–424, audit documentation, key contact form) needed for an otherwise complete application. All missing documents must be sent to DGM on or before the due date listed in the email of notification of missing documents required.

To obtain a minimum score for funding by the Objective Review Committee, applicants must address all

program requirements and provide all required documentation. Applicants that receive less than a minimum score will be considered to be ''Disapproved'' and will be informed via email or regular mail by the IHS Program Office of their application's deficiencies. A summary statement outlining the strengths and weaknesses of the application will be provided to each disapproved applicant. The summary statement will be sent to the Authorized Organizational Representative (AOR) that is identified on the face page (SF–424), of the application within 60 days of the completion of the Objective Review.

VI. Award Administration Information

1. Award Notices

The Notice of Award (NoA) is a legally binding document signed by the Grants Management Officer and serves as the official notification of the grant award. The (NoA) will be initiated by the DGM and will be mailed via postal mail or emailed to each entity that is approved for funding under this announcement. The NoA is the authorizing document for which funds are dispersed to the approved entities and reflects the amount of Federal funds awarded, the purpose of the grant, the terms and conditions of the award, the effective date of the award, and the budget/project period.

Disapproved Applicants

Applicants who received a score less than the recommended funding level for approval, 60, and were deemed to be disapproved by the Objective Review Committee, will receive an Executive Summary Statement from the IHS Program Office within 30 days of the conclusion of the ORC outlining the weaknesses and strengths of their application submitted. The IHS program office will also provide additional contact information as needed to address questions and concerns as well as provide technical assistance if desired.

Approved but Unfunded Applicants

Approved but unfunded applicants that met the minimum scoring range and were deemed by the ORC to be ''Approved'', but were not funded due to lack of funding, will have their applications held by DGM for a period of 1 year. If additional funding becomes available during the course of FY 2012, the approved application maybe re-considered by the awarding program office for possible funding. You will also receive an Executive Summary Statement from the IHS Program Office within 30 days of the conclusion of the ORC.

Note: Any correspondence other than the official NoA signed by an IHS Grants Management Official announcing to the Project Director that an award has been made to their organization is not an authorization to implement their program on behalf of IHS.

2. Administrative Requirements

Cooperative agreements are administered in accordance with the following regulations, policies, and OMB cost principles:

A. The criteria as outlined in this Program Announcement.

B. Administrative Regulations for Grants:

- 45 CFR, Part 92, Uniform Administrative requirements for Grants and Cooperative Agreements to State, Local and Tribal Governments.
- 45 CFR, Part 74, Uniform Administrative Requirements for Awards and Subawards to Institutions of Higher Education, Hospitals, and other Non-profit Organizations.

C. Grants Policy:

- HHS Grants Policy Statement, Revised 01/07.

D. Cost Principles:

- Title 2: Grant and Agreements, Part 225—Cost Principles for State, Local, and Indian Tribal Governments (OMB Circular A–87).
- Title 2: Grant and Agreements, Part 230—Cost Principles for Non-Profit Organizations (OMB Circular A–122).

E. Audit Requirements:

- OMB Circular A–133, Audits of States, Local Governments, and Non-profit Organizations.

3. Indirect Costs

This section applies to all grant recipients that request reimbursement of indirect costs (IDC) in their grant application. In accordance with HHS Grants Policy Statement, Part II–27, IHS requires applicants to obtain a current IDC rate agreement prior to award. The rate agreement must be prepared in accordance with the applicable cost principles and guidance as provided by the cognizant agency or office. A current rate covers the applicable grant activities under the current award's budget period. If the current rate is not on file with the DGM at the time of award, the IDC portion of the budget will be restricted. The restrictions remain in place until the current rate is provided to the DGM.

Generally, IDC rates for IHS grantees are negotiated with the Division of Cost Allocation (DCA) *http://rates.psc.gov/ and* the Department of Interior (National Business Center) *http://www.aqd.nbc.gov/services/ICS.aspx*. If your organization has questions regarding the indirect cost policy, please call (301) 443–5204 to request assistance.

4. Reporting Requirements

Grantees must submit required reports consistent with the applicable deadlines. Failure to submit required reports within the time allowed may result in suspension or termination of an active grant, withholding of additional awards for the project, or other enforcement actions such as withholding of payments or converting to the reimbursement method of payment. Continued failure to submit required reports may result in one or both of the following: (1) The imposition of special award provisions; and (2) the non-funding or non-award of other eligible projects or activities. This requirement applies whether the delinquency is attributable to the failure of the grantee organization or the individual responsible for preparation of the reports.

The reporting requirements for this program are noted below.

A. Progress Reports

Separate progress reports are required for each of the two awards included in this announcement. Program progress reports are required annually, within 30 days after the budget period ends. These reports must include a brief comparison of actual accomplishments to the goals established for the period, or, if applicable, provide sound justification for the lack of progress, and other pertinent information as required. Final reports must be submitted within 90 days of expiration of the budget/project period.

B. Financial Reports

Separate financial reports are required for the IHS award and the OS award. The awardee is responsible for accounting for each award separately. Federal Financial Report FFR (SF–425), Cash Transaction Reports are due 30 days after the close of every calendar quarter to the Division of Payment Management, HHS at: *http://www.dpm.psc.gov*. It is recommended that you also send copies of your FFR (SF–425) reports to your Grants Management Specialist. The awardee must submit two separate reports—one for each award. Failure to submit timely reports may cause a disruption in timely payments to your organization.

Grantees are responsible and accountable for accurate information being reported on all required reports: The Progress Reports and Federal Financial Report.

C. Federal Subaward Reporting System (FSRS)

This award may be subject to the Transparency Act subaward and executive compensation reporting requirements of 2 CFR Part 170.

The Federal Funding Accountability and Transparency Act of 2006, as amended (''Transparency Act''), requires the Office of Management and Budget (OMB) to establish a single searchable database, accessible to the public, with information on financial assistance awards made by Federal agencies. The Transparency Act also includes a requirement for recipients of Federal grants to report information about first-tier subawards and executive compensation under Federal assistance awards.

Effective October 1, 2010 IHS implemented a Term of Award into all IHS Standard Terms and Conditions, NoAs and funding announcements regarding this requirement. This IHS Term of Award is applicable to all IHS grant and cooperative agreements issued on or after October 1, 2010, with a $25,000 subaward obligation dollar threshold met for any specific reporting period. Additionally, all new (discretionary) IHS awards (where the project period is made up of more than one budget period) and where: (1) Project period start date was October 1, 2010 or after and (2) the primary awardee will have a $25,000 subaward obligation dollar threshold during any specific reporting period will be required to conduct address the FSRS reporting. For the full IHS award term implementing this requirement and additional award applicability information, visit the Grants Management Grants Policy Web site at: *http://www.ihs.gov/NonMedicalPrograms/gogp/index.cfm?module=gogp_policy_topics*.

Telecommunication for the hearing impaired is available at: TTY (301) 443–6394.

VII. Agency Contacts

1. Questions on the programmatic issues may be directed to:

Ms. Roselyn Tso, Acting Director, ODSCT, 801 Thompson Avenue, Suite 220, Rockville, Maryland 20852, Telephone: (301) 443–1104, Fax: (301) 443–4666, Email: *Roselyn.Tso@ihs.gov*.

2. Questions on grants management and fiscal matters may be directed to:

Mr. Andrew Diggs, DGM, Grants Management Specialist, 801 Thompson Avenue, TMP 360, Rockville, Maryland 20852, Telephone: (301) 443–5204, Fax: (301) 443–9602, Email: *Andrew.Diggs@ihs.gov*.

VIII. Other Information

The Public Health Service strongly encourages all cooperative agreement and contract recipients to provide a smoke-free workplace and promote the non-use of all tobacco products. In addition, Public Law 103–227, the Pro-Children Act of 1994, prohibits smoking in certain facilities (or in some cases, any portion of the facility) in which regular or routine education, library, day care, health care, or early childhood development services are provided to children. This is consistent with the HHS mission to protect and advance the physical and mental health of the American people.

Dated: June 19, 2012.

Yvette Roubideaux,

Director, Indian Health Service.

[FR Doc. 2012–15643 Filed 6–27–12; 8:45 am]

BILLING CODE 4165–16–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Refugee/Asylee Adjusting Status, OMB Control Number 1615–0070; Extension, Without Change, of a Currently Approved Collection

ACTION: 60-Day Notice of Information Collection Under Review: Form I–643, Health and Human Services Statistical Data for Refugee/Asylee Adjusting Status; OMB Control No.1615–0070.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) will be submitting the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection notice is published in the **Federal Register** to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for 60 days until August 27, 2012.

Written comments and suggestions regarding items contained in this notice, and especially with regard to the estimated public burden and associated response time should be directed to the Department of Homeland Security (DHS), USCIS, Office of Policy and Strategy, Laura Dawkins, Chief, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529. Comments may be submitted to DHS via email at *uscisfrcomment@dhs.gov* and must include OMB Control Number 1615–0070 in the subject box. Comments may also be submitted via the Federal eRulemaking Portal Web site at *http://www.Regulations.gov* under e-Docket ID number USCIS–2006–0029.

All submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to consider limiting the amount of personal information that you provide in any voluntary submission you make to DHS. DHS may withhold information provided in comments from public viewing that it determines may impact the privacy of an individual or is offensive. For additional information, please read the Privacy Act notice that is available via the link in the footer of *http://www.regulations.gov.*

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension, without change, of a currently approved collection.

(2) *Title of the Form/Collection:* Refugee/Asylee Adjusting Status.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–643,

Health and Human Services Statistical Data for Refugee/Asylee Adjusting Status.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. Refugees and Asylees, Cuban/Haitian Entrants under section 202 of Public Law 99–603, and Amerasians under Public Law 97–359, must use this form when applying for adjustment of status, with the U.S. Citizenship and Immigration Services (USCIS). USCIS will provide the data collected on this form to the Department of Health and Human Services (HHS).

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 195,000 respondents averaging .916 hours (55 minutes) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 178,620 Hours.

If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions, or additional information, please visit the Federal eRulemaking Portal site at: *http://www.regulations.gov.* We may also be contacted at: USCIS, Office of Policy and Strategy, Regulatory Coordination Division, 20 Massachusetts Avenue NW., Washington, DC 20529, Telephone number 202–272–8377.

Dated: June 22, 2012.

Laura Dawkins,

Chief, Regulatory Coordination Division, Office of Policy and Strategy, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. 2012–15874 Filed 6–27–12; 8:45 am]

BILLING CODE 9111–97–P

DEPARTMENT OF HOMELAND SECURITY

United States Immigration and Customs Enforcement

Agency Information Collection Activities: Extension, With Change, of an Existing Information Collection; Comment Request

ACTION: 60-Day Notice of Information Collection; 10–002; Electronic Funds Transfer Waiver Request; OMB Control No. 1653–0043.

The Department of Homeland Security, U.S. Immigration and Customs Enforcement (ICE), will submit the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until August 27, 2012.

Written comments and suggestions regarding items contained in this notice, and especially with regard to the estimated public burden and associated response time should be directed to the Department of Homeland Security (DHS), Rich Mattison, Chief, Records Management, U.S. Immigration and Customs Enforcement, 500 12th Street SW., Stop 5705, Washington, DC 20536; (202) 732–4356.

Comments are encouraged and will be accepted for sixty days until August 27, 2012. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension, with change, of an existing information collection.

(2) *Title of the Form/Collection:* Electronic Funds Transfer Waiver Request.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* (No. Form 10–002); U.S. Immigration and Customs Enforcement.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: State, Local, or Tribal Government. Section 404(b) of the Immigration and Nationality Act (8 U.S.C. 1101 note) provides for the reimbursement to States and localities for assistance provided in meeting an immigration emergency. This collection of information allows for State or local governments to request reimbursement.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 10 responses at 30 minutes (.50 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 300 annual burden hours Comments and/or questions; requests for a copy of the proposed information collection instrument, with instructions; or inquiries for additional information should be directed to: Virgil Gordon, Management and Program Analyst, U.S. Immigration and Customs Enforcement, 500 12th Street SW., Stop 5705, Washington, DC 20536; (202) 732–4356. Dated: June 25, 2012.

Rich Mattison,

Chief, Records Management, U.S. Immigration and Customs Enforcement, Department of Homeland Security.

[FR Doc. 2012–15875 Filed 6–27–12; 8:45 am]

BILLING CODE 9111–28–P

DEPARTMENT OF HOMELAND SECURITY

United States Immigration and Customs Enforcement

Agency Information Collection Activities: Extension, Without Change, of an Existing Information Collection; Comment Request

ACTION: 60-Day Notice of Information Collection; G–146; Non-Immigrant Check Letter; OMB Control No. 1653–0020.

The Department of Homeland Security, U.S. Immigration and Customs Enforcement (ICE), will submit the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until August 27, 2012.

Written comments and suggestions regarding items contained in this notice, and especially with regard to the estimated public burden and associated response time should be directed to the Department of Homeland Security (DHS), Rich Mattison, Management and Program Analyst, U.S. Immigration and Customs Enforcement, 500 12th Street SW., Stop 5705, Washington, DC 20536; (202) 732–4356.

Comments are encouraged and will be accepted for sixty days until August 27,

2012. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) *Type of Information Collection:* Extension, without change, of an existing information collection.

(2) *Title of the Form/Collection:* Non-Immigrant Check Letter.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* (No. Form G–146); U.S. Immigration and Customs Enforcement.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: State, Local, or Tribal Government. Section 404(b) of the Immigration and Nationality Act (8 U.S.C. 1101 note) provides for the reimbursement to States and localities for assistance provided in meeting an immigration emergency. This collection of information allows for State or local governments to request reimbursement.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 10 responses at 30 minutes (.50 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 300 annual burden hours Comments and/or questions; requests for a copy of the proposed information collection instrument, with instructions; or inquiries for additional information should be directed to: Rich Mattison, Chief, Records Management. U.S. Immigration and Customs Enforcement, 500 12th Street SW., Stop 5705, Washington, DC 20536; (202) 732–4356. Dated: Jun 25, 2012.

Rich Mattison,

Chief, Records Management, U.S. Immigration and Customs Enforcement, Department of Homeland Security.

[FR Doc. 2012–15877 Filed 6–27–12; 8:45 am]

BILLING CODE 9111–28–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R9–IA–2012–N156; FXIA16710900000P5–123–FF09A30000]

Endangered Species; Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: We, the U.S. Fish and Wildlife Service, invite the public to comment on the following applications to conduct certain activities with endangered species. With some exceptions, the Endangered Species Act (ESA) prohibits activities with listed species unless Federal authorization is acquired that allows such activities.

DATES: We must receive comments or requests for documents on or before July 30, 2012.

ADDRESSES: Brenda Tapia, Division of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 212, Arlington, VA 22203; fax (703) 358–2280; or email *DMAFR@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Brenda Tapia, (703) 358–2104 (telephone); (703) 358–2280 (fax); *DMAFR@fws.gov* (email).

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

A. How do I request copies of applications or comment on submitted applications?

Send your request for copies of applications or comments and materials concerning any of the applications to the contact listed under **ADDRESSES**. Please include the **Federal Register** notice publication date, the PRT-number, and the name of the applicant in your request or submission. We will not consider requests or comments sent to an email or address not listed under **ADDRESSES**. If you provide an email address in your request for copies of applications, we will attempt to respond to your request electronically.

Please make your requests or comments as specific as possible. Please confine your comments to issues for which we seek comments in this notice, and explain the basis for your comments. Include sufficient information with your comments to allow us to authenticate any scientific or commercial data you include.

The comments and recommendations that will be most useful and likely to influence agency decisions are: (1) Those supported by quantitative information or studies; and (2) Those that include citations to, and analyses of, the applicable laws and regulations. We will not consider or include in our administrative record comments we receive after the close of the comment period (see **DATES**) or comments delivered to an address other than those listed above (see **ADDRESSES**).

B. May I review comments submitted by others?

Comments, including names and street addresses of respondents, will be available for public review at the street address listed under **ADDRESSES**. The public may review documents and other information applicants have sent in support of the application unless our allowing viewing would violate the Privacy Act or Freedom of Information Act. Before including your address, phone number, email address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

II. Background

To help us carry out our conservation responsibilities for affected species, and in consideration of section 10(a)(1)(A) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), along with Executive Order 13576, ''Delivering an Efficient, Effective, and Accountable Government,'' and the President's Memorandum for the Heads of Executive Departments and Agencies of January 21, 2009—Transparency and Open Government (74 FR 4685; January 26, 2009), which call on all Federal agencies to promote openness and transparency in Government by disclosing information to the public, we invite public comment on these permit applications before final action is taken.

III. Permit Applications

A. Endangered Species

Applicant: Los Angeles Zoo, Los Angeles, CA; PRT–76107A

The applicant requests a permit to export one male and three female captive-bred yellow-footed rock wallaby (*Petrogale xanthopus xanthopus*) for the purpose of enhancement of the survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Rancho Rasante Real, LLC, Brackettville, TX; PRT–77003A

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the scimitar-horned oryx (*Oryx dammah*) and addax (*Addax nasomaculatus*) to enhance their propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Rancho Rasante Real, LLC, Brackettville, TX; PRT–77005A

The applicant requests a permit authorizing interstate and foreign commerce, export, and cull of excess scimitar-horned oryx (*Oryx dammah*) and addax (*Addax nasomaculatus*) from the captive herd maintained at their facility, for the purpose of enhancement of the survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Broken Spur Ranch, LLC, Mountain Home, TX; PRT–77731A

The applicant requests a captive-bred wildlife registration under 50 CFR 17.21(g) for the barasingha (*Rucervus duvaucelii*) and scimitar-horned oryx (*Oryx dammah*), to enhance their propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Broken Spur Ranch, LLC, Mountain Home, TX; PRT–77732A

The applicant requests a permit authorizing interstate and foreign commerce, export, and cull of excess barasingha (*Rucervus duvaucelii*) and scimitar-horned oryx (*Oryx dammah*), from the captive herd maintained at their facility, for the purpose of enhancement of the survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Applicant: Southern Tier Zoological Society, Inc., Binghamton, NY; PRT–212762

The applicant requests renewal and amendment of their captive-bred wildlife registration under 50 CFR 17.21(g) for the following species, to enhance their propagation or survival. This notification covers activities to be conducted by the applicant over a 5-year period.

Species:

Ring-tailed lemur (*Lemur catta*)

Black and white ruffed lemur (*Varecia variegata*)

Cottontop tamarin (*Saguinus oedipus*)

Snow leopard (*Uncia uncia*)

Amur leopard (*Panthera pardus orientalis*)

Siberian tiger (*Panthera tigris altaica*)

Golden parakeet (*Guarouba guarouba*)

Hooded crane (*Grus monacha*)

Jackass penguin (*Spheniscus demersus*)

Galapagos tortoise (*Chelonoidis nigra*)

Radiated tortoise (*Astrochelys radiata*)

Applicant: J & R Outfitters, Indiantown, FL; PRT–104625

The applicant requests renewal of their permit authorizing interstate and foreign commerce, export, and cull of excess barasingha (*Rucervus duvaucelii*), from the captive herd maintained at their facility, for the purpose of enhancement of the survival of the species. This notification covers activities to be conducted by the applicant over a 5-year period.

Multiple Applicants

The following applicants each request a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Richard McNeely, Reno, NV; PRT–76564A

Applicant: William Akin, Redfield, AK; PRT–76856A

Brenda Tapia,

Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.

[FR Doc. 2012–15839 Filed 6–27–12; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R9–IA–2012–N157; FXIA16710900000P5–123–FF09A30000]

Endangered Species; Marine Mammals; Issuance of Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of permits.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), have issued the following permits to conduct certain activities with endangered species, marine mammals, or both. We issue these permits under the Endangered Species Act (ESA) and Marine Mammal Protection Act (MMPA).

ADDRESSES: Brenda Tapia, Division of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 212, Arlington, VA 22203; fax (703) 358–2280; or email *DMAFR@fws.gov.*

FOR FURTHER INFORMATION CONTACT: Brenda Tapia, (703) 358–2104 (telephone); (703) 358–2280 (fax); *DMAFR@fws.gov* (email).

SUPPLEMENTARY INFORMATION: On the dates below, as authorized by the provisions of the ESA (16 U.S.C. 1531 *et seq.*), as amended, and/or the MMPA, as amended (16 U.S.C. 1361 *et seq.*), we issued requested permits subject to certain conditions set forth therein. For each permit for an endangered species, we found that (1) the application was filed in good faith, (2) the granted permit would not operate to the disadvantage of the endangered species, and (3) the granted permit would be consistent with the purposes and policy set forth in section 2 of the ESA.

Permit No.	Applicant	Receipt of application **Federal Register** notice	Permit issuance date
Endangered Species			
51599A	Kurt Wille	76 FR 61733; October 5, 2011	November 16, 2011.
57058A	Hahn Laboratory, University of Pennsylvania School of Medicine.	77 FR 298; January 4, 2012	April 12, 2012.

Permit No.	Applicant	Receipt of application **Federal Register** notice	Permit issuance date
54173A	Hahn Laboratory/University of Pennsylvania School of Medicine.	77 FR 2314; January 17, 2012	April 12, 2012.
62465A	John Jackman	77 FR 9687; February 17, 2012	March 22, 2012.
60964A	Scott Jennings	77 FR 9687; February 17, 2012	March 22, 2012.
58210A	Point Defiance Zoo & Aquarium	77 FR 9687; February 17, 2012	May 4, 2012.
65782A, 65783A, 65785A, 65787A, 65789A, 65790A, 65792A, 65793A,. 65796A, 66550A, 66549A, 66547A, 66546A, and 66548A.	Feld Entertainment, Inc.	77 FR 17494; March 26, 2012	May 14, 2012.
59285A, 65776A, 65778A, 65780A, and 65781A,.	Feld Entertainment, Inc.	77 FR 17494; March 26, 2012	May 17, 2012.
71576A	U.S. Fish and Wildlife Service	77 FR 22604; April 16, 2012	June 18, 2012.
72333A	Lonny Traweek	77 FR 24510; April 24, 2012	June 19, 2012
Marine Mammals			
58292A	Mote Marine Laboratory	77 FR 12870; March 2, 2012	June 20, 2012.
48161A	Dr. Martin Levin, University of Connecticut	77 FR 22604; April 16, 2012	June 20, 2012.
220876	Alaska Department of Fish and Game	77 FR 24510; April 24, 2012	June 22, 2012.

Availability of Documents

Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to: Division of Management Authority, U.S. Fish and Wildlife Service, 4401 North Fairfax Drive, Room 212, Arlington, VA 22203; fax (703) 358–2280.

Brenda Tapia,

Program Analyst/Data Administrator, Branch of Permits, Division of Management Authority.

[FR Doc. 2012–15838 Filed 6–27–12; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Clean Water Act

Notice is hereby given that on June 21, 2012, a proposed Consent Decree in *United States* v. *Russell Stover Candies, Inc.,* No. 5:12-cv-04081-RDR-KGS was lodged with the United States District Court for the District of Kansas.

The Consent Decree settles the claims of the United States' set forth in the complaint against Russell Stover Candies for civil penalties for violations of the Pretreatment requirements of the Clean Water Act. The Consent Decree requires the company to pay a civil penalty of $585,000 and perform injunctive relief by monitoring and sampling wastewater discharge.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Proposed Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either emailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *Russell Stover Candies, Inc.,* No. 5:12-cv-04081-RDR-KGS (D. Kansas), Department of Justice Case Number 90–5–1–1–10129.

During the public comment period, the Proposed Consent Decree may be examined on the following Department of Justice Web site: *http://www.justice.gov/enrd/Consent_Decrees.html.* A copy of the Proposed Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611 U.S. Department of Justice, Washington, DC 20044–7611, or by faxing or emailing a request to ''Consent Decree Copy'', *EESCDCopy.ENRD@USDOJ.GOV,* fax number (202) 514–0097, phone confirmation (202) 514–5271.

If requesting a copy from the Consent Decree Library by mail, please enclose a check in the amount of $10.50 (25 cents per page reproduction cost) payable to the United States Treasury or, if by email or fax, please forward a check in that amount to the Consent Decree Library at the stated address.

Maureen Katz,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2012–15756 Filed 6–27–12; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Clean Air Act

Notice is hereby given that on June 14, 2012, a proposed Consent Decree between plaintiff the United States and defendants American Seafoods Company LLC and Pacific Longline Company LLC (''Consent Decree'') was lodged with the United States District Court for the Western District of Washington.

In this action the United States sought civil penalties and injunctive relief for defendants' alleged violations of regulations promulgated by the United States Environmental Protection Agency (EPA) pursuant to Title VI of the Clean Air Act, specifically regulations set forth in 40 CFR Part 82, Subparts A and F, pertaining to the management and control of ozone-depleting substances. The Consent Decree requires the defendants to pay a civil penalty of $700,000.00 and implement measures to ensure their compliance and to partially remedy the impact of their alleged violations, including requirements to retire the equivalent of ozone-depleting substances consumption allowances they were required to purchase for previous imports of ozone-depleting refrigerants, convert at least two vessels employing ozone-depleting refrigerants to refrigerant systems using non-ozone-depleting substances, and implement a comprehensive leak inspection and repair program.

For thirty (30) days after the publication of this notice, the Department of Justice will receive comments related to the Consent Decree. Comments should be addressed

to the Assistant Attorney General, Environment and Natural Resources Division, and either mailed to *pubcomment-ees.enrd@usdoj.gov* or to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States* v. *American Seafoods LLC and Pacific Longline Company LLC,* No. 12-cv-01040 (W.D. Wash.), DOJ No. 90–5–2–1–10161.

During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site: *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the Consent Decree may also be obtained by mail from the Consent Decree library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, or by faxing or emailing a request to ''Consent Decree Copy'' (*EESCDCopy.ENRD@udoj.gov),* fax no. (202) 514–0097, phone confirmation number (202) 514–5271. If requesting a copy from the Consent Decree library by mail, please enclose a check in the amount of $7.00 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if requesting by email or fax, forward a check in that amount to the Consent Decree Library at the address given above.

Robert E. Maher, Jr.,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2012–15845 Filed 6–27–12; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Proposed Consent Decree Under the Comprehensive Environmental Response, Compensation and Liabiilty Act (''CERCLA'')

Notice is hereby given that on June 18, 2012, a proposed Consent Decree in *United States of America* v. *Government of the U.S. Virgin Islands,* Civil Action No. 09–122 was lodged with the District Court of the Virgin Islands, Division of St. Thomas and St. John.

In this action, the United States sought recovery of response costs pursuant to Section 107(a) of CERCLA, for costs incurred related to the Tutu Wellfield Superfund Site in St. Thomas, U.S. Virgin Islands. The consent decree requires the Government of the U.S. Virgin Islands to take over operation and maintenance of two existing groundwater pump-and-treat systems at the Tutu Wellfield Superfund Site one year prior to the date that it otherwise would be required to take over such operations.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either emailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *United States of America* v. *Government of the U.S. Virgin Islands,* D.J. Ref. 90–11–3–09838.

During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site, to *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or emailing a request to ''Consent Decree Copy'' (*EESCDCopy.ENRD@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–5271. If requesting a copy from the Consent Decree Library by mail, please enclose a check in the amount of $22.00 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if requesting by email or fax, forward a check in that amount to the Consent Decree Library at the address given above.

Ronald G. Gluck,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 2012–15876 Filed 6–27–12; 8:45 am]

BILLING CODE 4410–15–P

DEPARTMENT OF JUSTICE

National Institute of Corrections

Solicitation for a Cooperative Agreement: Training Curriculum Development for Probation and Parole Supervision Executives

AGENCY: National Institute of Corrections, U.S. Department of Justice.

ACTION: Solicitation for a cooperative agreement.

SUMMARY: The National Institute of Corrections (NIC) is soliciting proposals from organizations, groups, or individuals who would like to enter into a 12-month cooperative agreement with NIC to develop and pilot a training curriculum that prepares executives of probation and parole supervision agencies in their new position. This curriculum should be between 32–40 hours, include a blended approach to training using instructor-led face-to-face and Web-based instructional delivery strategies, and be based on NIC's Instructional Theory Into Practice (ITIP) model.

DATES: Applications must be received by 4:00 p.m. EDT on Friday, July 20, 2012.

ADDRESSES: Mailed applications must be sent to: Director, National Institute of Corrections, 320 First Street NW., Room 5002, Washington, DC 20534. Applicants are encouraged to use Federal Express, UPS, or similar service to ensure delivery by the due date.

Hand delivered applications should be brought to 500 First Street NW., Washington, DC 20534. At the front desk, dial 7–3106, extension 0 for pickup.

Faxed applications will not be accepted. Electronic applications can only be submitted via *www.grants.gov*.

FOR FURTHER INFORMATION CONTACT: A copy of this announcement and the required application forms can be downloaded from the NIC Web page at *www.nicic.gov*.

All technical or programmatic questions concerning this announcement should be directed to Robbye Braxton, Correctional Program Specialist, National Institute of Corrections at *rbraxtonmintz@bop.gov* or to Jim Cosby, Community Services Division Chief, at *jcosby@bop.gov*.

SUPPLEMENTARY INFORMATION: The goal is to develop and pilot a training curriculum for probation and parole supervision executives that will describe their role and function as chief executive officer of a criminal justice agency. The curriculum should promote the use of evidence-based practices in planning and implementation, describe an executive's responsibility in the transition/reentry of offenders, clarify the collaborative role of an executive with other stakeholders in the criminal justice system, and examine the executive's leadership role in influencing an organizational culture that supports an agency's mission and goals.

Background: Generally an alternative to incarceration, probation is a court ordered period of correctional supervision in the community. Conversely, parole is a period of conditional supervised release in the community following a term of incarceration. There are many agencies that combine the functions of probation and parole community supervision in

one agency. This combination increases the need for various offender management strategies, programs, and services. According to the most recent report from the Bureau of Justice Statistics titled ''Probation and Parole in the United States, 2010,'' the number of adult probationers under community supervision was 4,887,900. The report also indicated that the number of adult parolees under community supervision was at 840,700. And while the report indicates a declining trend, these numbers—more than 5 million offenders—illustrate the need for continuing effective services to further reduce recidivism and increase public safety.

This training will prepare newly appointed probation and parole executives to function in their position successfully in an evidence-based era. Issues of agency leadership, motivation, communication, decision-making, strategic planning, and managing daily operations are often new to these executives. While many come to the position with a myriad of criminal justice experiences, some have never been in a position of chief executive officer.

Statement of Work: Under this cooperative agreement, the goal is to develop and pilot a blended ITIP curriculum that prepares probation and parole supervision executives for their new role and responsibilities. This work will occur in four phases. The first phase is curriculum development and design, where probation and parole executive-level competency areas—knowledge and skills—will be identified through the developing-a-curriculum (DACUM) process. The curriculum is then designed using the ITIP model. The second phase is training for trainers (T4T). The newly designed curriculum will be presented to select trainers. The training will introduce trainers to the curriculum, adult learning theories, and facilitation styles. The third phase is pilot testing. This is the delivery of the new curriculum to participants from various jurisdictions. Finally, the last phase is revision, and it will involve assessments of and changes to the curriculum in order to produce the final deliverable.

Tasks to be performed under this cooperative agreement include: (1) Create a 32- to 40-hour blended training curriculum based on the ITIP model. The awardee under this solicitation will develop content areas—probation and parole executive competencies—as the basis for the curriculum. The awardee will participate in initial meetings with the NIC Correctional Program Specialist (CPS) assigned to manage the cooperative agreement to ensure understanding of and agreement on the scope of work to be performed. The awardee must consider and use NIC's positions relative to transition, evidenced-base practices, and offender programming in the development of the curriculum. In addition, the awardee will develop slide shows, a participant manual, and any other participant materials such as handouts or pre- and post-training assignments. The final curriculum, including its format, must be approved in advance by NIC. (2) Design, facilitate and validate the DACUM. The awardee will work with NIC's CPS to identify subject matter experts to serve on both the original DACUM and the validation DACUM. NIC will approve the final list of subject matter experts for both sessions. The DACUM will take place at the National Training Academy in Aurora, CO. The DACUM validation will occur virtually. (3) Design and facilitate a three- or four-day, T4T workshop based on the new curriculum. The awardee will work with NIC's CPS to identify potential trainers for the T4T, and NIC's CPS will approve the final list of trainers. During this session, trainers will become familiar with adult learning theory and its connection to facilitation styles. The session will include opportunities for the trainers to practice facilitating the modules, and the awardee, along with NIC's CPS, will provide feedback to trainers. The T4T session will take place at the National Training Academy in Aurora, CO. (4) Pilot the curriculum. The curriculum will be delivered to participants from various jurisdictions. The awardee will work with NIC's CPS in managing some of the pilot training logistics, such as setting training dates, reproducing trainer and participant materials, and acquiring any necessary equipment or additional information. The awardee will be present during the pilot to observe and assess the training. At the conclusion of each training day, the team—CPS, trainers and awardee—will participate in debriefing sessions to assess training and curriculum concerns/issues. The pilot will take place at the National Training Academy in Aurora, CO. (5) Develop an assessment instrument of the curriculum in consultation with NIC's CPS and NIC's Research and Information Services Division. (6) Participate in planning meetings with NIC's CPS to coordinate the curriculum development, review the DACUM information, assess the pilot training, and review final curriculum revisions. Awardee expenses for these meetings are limited to the cost of travel, lodging, meals, incidental expenses, and compensation. The awardee should plan for up to four 2-day meetings. Two of the meetings will take place at the National Training Academy in Aurora, CO, after the DACUM and pilot training. The other two meetings will take place in Washington, DC, at NIC's offices. All other meetings will occur either by telephone or virtual meeting.

Required Expertise: The successful applicant will need the skills, abilities, and knowledge in the following areas: Knowledge of the role of probation and parole and its function in the criminal justice system; The ability to develop a curriculum using the Instructional Theory Into Practice (ITIP) format; Expertise in a variety of instructional delivery strategies including, instructor-led synchronous/asynchronous Web-based e-learning; Skill in designing training curriculum linked to training objectives; Knowledge of evidence-based practices, offender transition, and how these areas relate to probation and parole supervision; Knowledge of training evaluation methods; Effective written and oral communication skills.

As part of this cooperative agreement, NIC will provide funding for participant expenses (travel, lodging, and meals) for the initial DACUM; participant expenses (travel, lodging, and meals) for the training for trainers workshop; and participant and trainer expenses (travel, lodging, and meals) for the pilot training. The awardee will not be responsible for these costs and should not include them in their application.

Document Requirements: Documents or other media produced under this award must follow these guidelines: Prior to the preparation of the final draft of any document or other media, the awardee must consult with NIC's Writer/Editor concerning the acceptable formats for manuscript submissions and the technical specifications for electronic media. The awardee must follow the guidelines listed herein, as well as follow (1) the Guidelines for Preparing and Submitting Manuscripts for Publication as found in the ''General Guidelines for Cooperative Agreements,'' which can be found on our Web site at *www.nicic.gov/cooperativeagreements* and (2) NIC recommendations for producing media using plain language, which can be found at *www.nicic.gov/plainlanguage.*

All final documents and other media submitted under this project may be posted on the NIC Web site and must meet the federal government's requirement for accessibility (e.g., 508 PDFs or HTML files). The awardee must provide descriptive text interpreting all graphics, photos, graphs, and/or

multimedia that will be included with or distributed alongside the materials and must provide transcripts for all applicable audio/visual works.

Application Requirements: Applications should be concisely written, typed, double spaced, and reference the project by the NIC Opportunity Number and title in this announcement. The package must include a cover letter that identifies the audit agency responsible for the applicant's financial accounts as well as the audit period or fiscal year that the applicant operates under (e.g., July 1 through June 30); a program narrative, not to exceed 30 pages, in response to the statement of work; and a budget narrative explaining projected costs. Applicants may submit a description of the project teams' qualifications and expertise relevant to the project but should not attach lengthy resumes.

The following forms must also be included: OMB Standard Form 424, Application for Federal Assistance; OMB Standard Form 424A, Budget information—Non-Construction Programs; OMB Standard Form 424B, Assurances—Non-Construction Programs (these forms are available at *http://www.grants.gov*) and DOJ/NIC Certification Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and the Drug-Free Workplace Requirements available at *http://nicic.gov/Downloads/General/certif-frm.pdf.*

In addition, please submit with your typed application a copy of an ITIP curriculum, which must include all lesson plans and slide show presentations. The curriculum should be one that your organization has developed or developed in collaboration with another organization. You are not required to submit participant materials and/or manuals, but you may do so. The curriculum and related materials should be submitted on a disc.

Failure to supply all required forms with the application package may result in disqualification of the application from consideration.

NIC project managers will post answers to questions received from potential applicants on its Web site during the time when the solicitation is open to the public.

Authority: Pub. L. 93–415

Funds Available: Up to $90,000 is available for this project, subject to available funding. Preference will be given to applicants who provide the most cost efficient solutions in accomplishing the scope of work, not necessarily the lowest bid. NIC is seeking the applicant's best ideas regarding accomplishment of the scope of work and the related costs for achieving the goals of this solicitation. Funds may be used only for the activities that are linked to the desired outcome of the project.

This project will be a collaborative venture with the NIC Community Services Division.

Eligibility of Applicants: An eligible applicant is any private agency, educational institution, organization, individual, or team with expertise in the described areas.

Review Considerations: Applications received under this announcement will be subjected to the NIC Review Process. Proposals that fail to provide sufficient information to allow evaluation under the criteria below may be judged non-responsive and disqualified.

The criteria for the evaluation will be as follows:

Programmatic (45%)

Are all of the six project tasks discussed adequately? Is there a clear statement of how each task will be accomplished, the strategies to be employed, required staffing, and other required resources? Has the applicant demonstrated a clear understanding of ITIP and curriculum design concepts? Are there any innovative approaches, techniques, or design aspects proposed that will enhance the project?

Organizational (30%)

Does the proposed project staff possess the skills, knowledge and expertise necessary to complete the tasks listed under the scope of work? Does the applicant organization, group, or individual have the organizational capacity to achieve all five project tasks? Are the proposed project management and staffing plans realistic and sufficient to complete the project within the project time frame?

Project Management/Administration (25%)

Does the applicant identify reasonable milestones and measures to track progress? If consultants and/or partnerships are proposed, is there a reasonable justification for their inclusion in the project and a clear structure to ensure effective coordination? Is the proposed budget realistic, does it provide a sufficient cost detail/narrative, and does it represent good value relative to the anticipated results?

Note: NIC will NOT award a cooperative agreement to an applicant who does not have a Dun and Bradstreet Database Universal Number (DUNS) and is not registered in the Central Contractor Registry (CCR).

A DUNS number can be received at no cost by calling the dedicated toll-free DUNS number request line at 1–800–333–0505 (if you are a sole proprietor, you would dial 1–866–705–5711 and select option #1).

Registration in the CCR can be done online at the CCR Web site: *http://www.bpn.gov/ccr.* A CCR handbook and Worksheet can also be reviewed at the Web site.

Number of Awards: One

NIC Opportunity Number: 12CS12. This number should appear as a reference line in the cover letter, where indicated on Standard Form 424, and outside of the envelope in which the application is sent.

Catalog of Federal Domestic Assistance Number: 16.601.

Executive Order 12372: This project is not subject to the provisions of Executive Order 12372.

Morris L. Thigpen,

Director, National Institute of Corrections.

[FR Doc. 2012–15842 Filed 6–27–12; 8:45 am]

BILLING CODE 4410–36–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Hazardous Waste Operations and Emergency Response

ACTION: Notice.

SUMMARY: On June 30, 2012, the Department of Labor (DOL) will submit the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) titled, ''Hazardous Waste Operations and Emergency Response,'' to the Office of Management and Budget (OMB) for review and approval for continued use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 et seq.).

DATES: Submit comments on or before July 30, 2012.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site, *http://www.reginfo.gov/public/do/PRAMain,* on or after July 1, 2012, or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request to the Office of Information and

Regulatory Affairs, Attn: OMB Desk Officer for DOL–OSHA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503, Telephone: 202–395–6929/Fax: 202–395–6881 (these are not toll-free numbers), email: *OIRA_submission@omb.eop.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

FOR FURTHER INFORMATION CONTACT: Contact Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The Hazardous Waste Operations and Emergency Response (HAZWOPER) Standard specifies a number of information collection requirements. Employers can use the information collected under the HAZWOPER rule to develop the various programs the Standard requires and to ensure that workers are trained properly about the safety and health hazards associated with hazardous waste operations and emergency response to hazardous waste releases. The OSHA uses the records developed in response to this Standard to determine adequate compliance with the Standard's safety and health provisions. An employer's failure to collect and distribute the information required in this Standard would significantly affect OSHA efforts to control and reduce injuries and fatalities. Such failure would also be contrary to the direction Congress provided in the Superfund Amendments and Reauthorization Act.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1218–0202. The current approval is scheduled to expire on June 30, 2012; however, it should be noted that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional information, see the related notice published in the **Federal Register** on April 30, 2012 (77 FR 25500).

Interested parties are encouraged to send timely comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section of this notice. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1218–0202. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL–OSHA.

Title of Collection: Hazardous Waste Operations and Emergency Response.

OMB Control Number: 1218–0202.

Affected Public: Private Sector—businesses or other for-profits.

Total Estimated Number of Respondents: 30,125.

Total Estimated Number of Responses: 1,205,700.

Total Estimated Annual Burden Hours: 1,198,573.

Total Estimated Annual Other Costs Burden: $3,059,864.

Dated: June 25, 2012.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2012–15855 Filed 6–27–12; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Asbestos in Shipyards Standard

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) titled, ''Asbestos in Shipyards Standard,'' to the Office of Management and Budget (OMB) for review and approval for continued use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 et seq.).

DATES: Submit comments on or before July 30, 2012.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the *RegInfo.gov* Web site, *http://www.reginfo.gov/public/do/PRAMain,* on the day following publication of this notice or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OSHA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503, Telephone: 202–395–6929/Fax: 202–395–6881 (these are not toll-free numbers), email: *OIRA_submission@omb.eop.gov.*

Authority: 44 U.S.C. 3507(a)(1)(D).

FOR FURTHER INFORMATION CONTACT: Contact Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: The Asbestos in Shipyards Standard requires employers to train workers about the hazards of asbestos, to monitor worker exposure, to provide medical surveillance, and maintain accurate records of worker exposure to asbestos. Employers, workers, and the Government use these records to ensure workers are not harmed by exposure to asbestos in the workplace.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control

Number 1218–0195. The current approval is scheduled to expire on June 30, 2012; however, it should be noted that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional information, see the related notice published in the **Federal Register** on April 2, 2012 (77 FR 19737).

Interested parties are encouraged to send timely comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section of this notice. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1218–0195. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL–OSHA.

Title of Collection: Asbestos in Shipyards Standard.

OMB Control Number: 1218–0195.

Affected Public: Private Sector—businesses or other for-profits.

Total Estimated Number of Respondents: 315.

Total Estimated Number of Responses: 2,896.

Total Estimated Annual Burden Hours: 1,613.

Total Estimated Annual Other Costs Burden: $2,978.

Dated: June 25, 2012.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2012–15854 Filed 6–27–12; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Occupational Safety and Health Administration Strategic Partnership Program for Worker Safety and Health

ACTION: Notice.

SUMMARY: On June 29, 2012, the Department of Labor (DOL) will submit the Occupational Safety and Health Administration (OSHA) sponsored information collection request (ICR) titled, ''Occupational Safety and Health Administration Strategic Partnership Program for Worker Safety and Health,'' to the Office of Management and Budget (OMB) for review and approval for continued use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*).

DATES: Submit comments on or before July 30, 2012.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site, *http://www.reginfo.gov/public/do/PRAMain,* on or after June 30, 2012, or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an email to *DOL_PRA_PUBLIC@dol.gov*.

Submit comments about this request to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OSHA, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503, Telephone: 202–395–6929/Fax: 202–395–6881 (these are not toll-free numbers), email: *OIRA_submission@omb.eop.gov*.

Authority: 44 U.S.C. 3507(a)(1)(D).

FOR FURTHER INFORMATION CONTACT: Contact Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov*.

SUPPLEMENTARY INFORMATION: Employers who voluntarily participate in the OSHA Strategic Partnership Program for Worker Safety and Health are required to monitor and to assess the impact of partnership. An OSHA strategic partnership aims to have a measurable positive impact on workplace safety and health that goes beyond what historically has been achievable through traditional enforcement method and focuses on individual work sites.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1218–0244. The current approval is scheduled to expire on June 30, 2012; however, it should be noted that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional information, see the related notice published in the **Federal Register** on April 26, 2012.

Interested parties are encouraged to send timely comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section of this notice. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1218–0244. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL–OSHA.

Title of Collection: Occupational Safety and Health Administration Strategic Partnership Program for Worker Safety and Health.

OMB Control Number: 1218–0244.

Affected Public: Private Sector—businesses or other for-profits.

Total Estimated Number of Responses: 18,144.

Total Estimated Annual Burden Hours: 108,702.

Total Estimated Annual Other Costs Burden: $0.

Dated: June 25, 2012.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2012–15853 Filed 6–27–12; 8:45 a.m.]

BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Rehabilitation Maintenance Certificate

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Office of Workers' Compensation Programs (OWCP) sponsored information collection request (ICR) revision titled, ''Rehabilitation Maintenance Certificate,'' to the Office of Management and Budget (OMB) for review and approval for use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*).

DATES: Submit comments on or before July 30, 2012.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site, *http://www.reginfo.gov/public/do/PRAMain*, on the day following publication of this notice or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an email to *DOL_PRA_PUBLIC@dol.gov*.

Submit comments about this request to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–OWCP, Office of Management and Budget, Room 10235, 725 17th Street NW., Washington, DC 20503, Telephone: 202–395–6929/Fax: 202–395–6881 (these are not toll-free numbers), email: *OIRA_submission@omb.eop.gov*.

FOR FURTHER INFORMATION CONTACT: Contact Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov*.

SUPPLEMENTARY INFORMATION: The OWCP administers the Federal Employees' Compensation Act (FECA) and the Longshore and Harbor Workers' Compensation Act (LHWCA). These acts provide vocational rehabilitation services to eligible workers with disabilities. The FECA provides that the OWCP may pay an individual undergoing vocational rehabilitation a maintenance allowance, not to exceed $200 a month. The LHWCA provides that persons undergoing such vocational rehabilitation shall receive maintenance allowances as additional compensation. The Rehabilitation Maintenance Certificate, Form OWCP–17, is used to collect information necessary to determine the amount of any maintenance allowance to be paid. Form OWCP–17, is submitted to the OWCP by program participants or contractors the agency hires to provide vocational rehabilitation services requesting payment of an additional rehabilitation maintenance amount to cover incidental costs of obtaining vocational rehabilitation services. For example, when a disabled worker attends a training program, Form OWCP–17 may be used to request reimbursement of out-of-pocket costs such as travel expenses. This ICR technically qualifies as a revision under the PRA, because the agency has reformatted elements of Form OWCP–17 (e.g., replaced an obsolete logo with the DOL Seal and removed references to the no longer existent Employment Standards Administration).

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a valid Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under Control Number 1240–0012. The current approval is scheduled to expire on June 30, 2012; however, it should be noted that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional information, see the related notices published in the **Federal Register** on February 9, 2012, (77 FR 6824) and April 5, 2012 (77 FR 20654).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the ADDRESSES section within 30 days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1240–0012. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL–OWCP.

Title of Collection: Rehabilitation Maintenance Certificate.

OMB Control Number: 1240–0012.

Affected Public: Individuals or Households.

Total Estimated Number of Respondents: 603.

Total Estimated Number of Responses: 5,022.

Total Estimated Annual Burden Hours: 837.

Total Estimated Annual Other Costs Burden: $0.

Dated: June 22, 2012.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2012–15792 Filed 6–27–12; 8:45 am]

BILLING CODE 4510–CR–P

DEPARTMENT OF LABOR

Office of the Secretary

Agency Information Collection Activities; Submission for OMB Review; Comment Request; Independent Contractor Registration and Identification

ACTION: Notice.

SUMMARY: The Department of Labor (DOL) is submitting the Mine Safety and Health Administration (MSHA) sponsored information collection

request (ICR) titled, ''Independent Contractor Registration and Identification,'' to the Office of Management and Budget (OMB) for review and approval for continued use in accordance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501 *et seq.*).

DATES: Submit comments on or before July 30, 2012.

ADDRESSES: A copy of this ICR with applicable supporting documentation; including a description of the likely respondents, proposed frequency of response, and estimated total burden may be obtained from the RegInfo.gov Web site, *http://www.reginfo.gov/public/do/PRAMain,* on the day following publication of this notice or by contacting Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or sending an email to *DOL_PRA_PUBLIC@dol.gov.*

Submit comments about this request to the Office of Information and Regulatory Affairs, Attn: OMB Desk Officer for DOL–MSHA, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503, Telephone: 202–395–6929/Fax: 202–395–6881 (these are not toll-free numbers), email: *OIRA_submission@omb.eop.gov.*

FOR FURTHER INFORMATION: Contact Michel Smyth by telephone at 202–693–4129 (this is not a toll-free number) or by email at *DOL_PRA_PUBLIC@dol.gov.*

SUPPLEMENTARY INFORMATION: Regulations 30 CFR part 45, Independent Contractors, sets forth information requirements and procedures for independent contractors to obtain a MSHA identification number and procedures for service of documents upon independent contractors. The subject information collections support the appropriate assessment of fines for violations by independent contractors and the deterrent effect of MSHA enforcement actions on independent contractors. Contractors may use Form MSHA–7000–52 to register.

This information collection is subject to the PRA. A Federal agency generally cannot conduct or sponsor a collection of information, and the public is generally not required to respond to an information collection, unless it is approved by the OMB under the PRA and displays a currently valid OMB Control Number. In addition, notwithstanding any other provisions of law, no person shall generally be subject to penalty for failing to comply with a collection of information if the collection of information does not display a valid OMB Control Number. *See* 5 CFR 1320.5(a) and 1320.6. The DOL obtains OMB approval for this information collection under OMB Control Number 1219–0040. The current OMB approval is scheduled to expire on June 30, 2012; however, it should be noted that existing information collection requirements submitted to the OMB receive a month-to-month extension while they undergo review. For additional information, see the related notice published in the **Federal Register** on March 23, 2012 (77 FR 17098).

Interested parties are encouraged to send comments to the OMB, Office of Information and Regulatory Affairs at the address shown in the **ADDRESSES** section within 30 days of publication of this notice in the **Federal Register**. In order to help ensure appropriate consideration, comments should mention OMB Control Number 1219–0040. The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility, and clarity of the information to be collected; and
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Agency: DOL–MSHA.

Title of Collection: Independent Contractor Registration and Identification.

OMB Control Number: 1219–0040.

Affected Public: Private Sector—Businesses or other for profits.

Total Estimated Number of Respondents: 15,609.

Total Estimated Number of Responses: 101,702.

Total Estimated Annual Burden Hours: 9,245.

Total Estimated Annual Other Costs Burden: $545.

Dated: June 21, 2012.

Michel Smyth,

Departmental Clearance Officer.

[FR Doc. 2012–15793 Filed 6–27–12; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers by (TA–W) number issued during the period of *June 4, 2012 through June 8, 2012.*

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Under Section 222(a)(2)(A), the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The sales or production, or both, of such firm have decreased absolutely; and

(3) One of the following must be satisfied:

(A) Imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased;

(B) Imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased;

(C) Imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles incorporating one or more component parts produced by such firm have increased;

(D) Imports of articles like or directly competitive with articles which are produced directly using services supplied by such firm, have increased; and

(4) The increase in imports contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; or

II. Section 222(a)(2)(B) all of the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially

separated, or are threatened to become totally or partially separated;

(2) One of the following must be satisfied:

(A) There has been a shift by the workers' firm to a foreign country in the production of articles or supply of services like or directly competitive with those produced/supplied by the workers' firm;

(B) There has been an acquisition from a foreign country by the workers' firm of articles/services that are like or directly competitive with those produced/supplied by the workers' firm; and

(3) The shift/acquisition contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in public agencies and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) A significant number or proportion of the workers in the public agency have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The public agency has acquired from a foreign country services like or directly competitive with services which are supplied by such agency; and

(3) The acquisition of services contributed importantly to such workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(c) of the Act must be met.

(1) A significant number or proportion of the workers in the workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm is a Supplier or Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, and such supply or production is related to the article or service that was the basis for such certification; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(f) of the Act must be met.

(1) The workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) An affirmative determination of serious injury or threat thereof under section 202(b)(1);

(B) An affirmative determination of market disruption or threat thereof under section 421(b)(1); or

(C) An affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));

(2) The petition is filed during the 1-year period beginning on the date on which—

(A) A summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) with respect to the affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3); or

(B) Notice of an affirmative determination described in subparagraph (1) is published in the **Federal Register**; and

(3) The workers have become totally or partially separated from the workers' firm within—

(A) The 1-year period described in paragraph (2); or

(B) Notwithstanding section 223(b)(1), the 1-year period preceding the 1-year period described in paragraph (2).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
81,516	Flo-Pro, Inc., Robert Half International, American Research Staffing Network, etc.	Bedford, NH	April 17, 2011.
81,525	Parkdale Mills, Inc., Plant #42, Serve Source/Defender Services	Lavonia, GA	April 9, 2011.
81,544	Electronic Research, Inc	Gray, ME	April 26, 2011.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production or services) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
81,380	Yellow Pages Group, LLC, Publishing Operations, Media Consultant Agent, Kelly Services, etc.	Blue Bell, PA	February 4, 2011.
81,548	Stanley Furniture Company, Inc., Ameristaff Employment & Staffing Solutions.	Stanleytown, VA	May 6, 2012.
81,563	Steel Heddle, Inc., Phillips Staffing and Sawyer Staffing	Greenville, SC	April 26, 2011.
81,597	Lifewatch Services, Inc., Customer Service Dept., Billing Integrity, Aerotex, Medix, and Accountemps.	Rosemont, IL	May 8, 2011.
81,605	RapcoHorizon Company, Shop Transformers Department, RHC Holding Corporation.	Jackson, MO	May 10, 2011.
81,605A	RHC Holding Corporation	Jackson, MO	May 10, 2011.

TA–W No.	Subject firm	Location	Impact date
81,614	Voicecom Telecommunications, LLC, DBA Intelliverse, Client Services Tier 1 Department, Amvensys Capital Group, LLC.	Alpharetta, GA	May 14, 2011.
81,615	Coleman Cable, Inc., Express Personnel and Red Carpet	Texarkana, AR	May 14, 2011.
81,616	Bank of America, N.A., Bank of America Corporation, Customer Service Contact Centers.	Concord, CA	May 15, 2011.
81,635	Communications Test Design, Inc., Global Repair Call Center Department, Aerotek Commerical Staffing.	Nashville, TN	May 17, 2011.
81,649	Connecticut General Life Insurance Company, Finance Division, Cigna Co., Robert Half, etc.	Hartford, CT	May 21, 2011.

The following certifications have been issued. The requirements of Section 222(f) (firms identified by the International Trade Commission) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
81,543	Armstrong Hardwood Flooring Company, Armstrong World Industries, Inc., 1st Choice Personnel.	Center, TX	December 7, 2010.
81,573	New Age Industrial Corporation	Norton, KS	May 19, 2010.

Negative Determinations for Worker Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

The investigation revealed that the criterion under paragraph (a)(1), or (b)(1), or (c)(1)(employment decline or threat of separation) of section 222 has not been met.

TA–W No.	Subject firm	Location	Impact date
81,636	Macquarie Holding USA, Inc., Renumeration Accounting Department, Kelly Services.	Philadelphia, PA.	

The investigation revealed that the criteria under paragraphs(a)(2)(A) (increased imports) and (a)(2)(B) (shift in production or services to a foreign country) of section 222 have not been met.

TA–W No.	Subject firm	Location	Impact date
81,555	Nestaway LLC, Leggett and Platt, Inc	Clinton, NC.	

I hereby certify that the aforementioned determinations were issued during the period of June 4, 2012 through June 8, 2012. These determinations are available on the Department's Web site *tradeact/taa/taa search form.cfm* under the searchable listing of determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Dated: June 15, 2012.

Elliott S. Kushner,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–15848 Filed 6–27–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Notice of Determinations Regarding Eligibility To Apply for Worker Adjustment Assistance

In accordance with Section 223 of the Trade Act of 1974, as amended (19 U.S.C. 2273) the Department of Labor herein presents summaries of determinations regarding eligibility to apply for trade adjustment assistance for workers by (TA–W) number issued during the period of May 28, 2012 through June 1, 2012.

In order for an affirmative determination to be made for workers of a primary firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(a) of the Act must be met.

I. Under Section 222(a)(2)(A), the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The sales or production, or both, of such firm have decreased absolutely; and

(3) One of the following must be satisfied:

(A) Imports of articles or services like or directly competitive with articles produced or services supplied by such firm have increased;

(B) Imports of articles like or directly competitive with articles into which one or more component parts produced by such firm are directly incorporated, have increased;

(C) Imports of articles directly incorporating one or more component parts produced outside the United States that are like or directly competitive with imports of articles

incorporating one or more component parts produced by such firm have increased;

(D) Imports of articles like or directly competitive with articles which are produced directly using services supplied by such firm, have increased; and

(4) The increase in imports contributed importantly to such workers' separation or threat of separation and to the decline in the sales or production of such firm; or

II. Section 222(a)(2)(B) all of the following must be satisfied:

(1) A significant number or proportion of the workers in such workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) One of the following must be satisfied:

(A) There has been a shift by the workers' firm to a foreign country in the production of articles or supply of services like or directly competitive with those produced/supplied by the workers' firm;

(B) There has been an acquisition from a foreign country by the workers' firm of articles/services that are like or directly competitive with those produced/supplied by the workers' firm; and

(3) The shift/acquisition contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in public agencies and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(b) of the Act must be met.

(1) A significant number or proportion of the workers in the public agency have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The public agency has acquired from a foreign country services like or directly competitive with services which are supplied by such agency; and

(3) The acquisition of services contributed importantly to such workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected secondary workers of a firm and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(c) of the Act must be met.

(1) A significant number or proportion of the workers in the workers' firm have become totally or partially separated, or are threatened to become totally or partially separated;

(2) The workers' firm is a Supplier or Downstream Producer to a firm that employed a group of workers who received a certification of eligibility under Section 222(a) of the Act, and such supply or production is related to the article or service that was the basis for such certification; and

(3) Either—

(A) The workers' firm is a supplier and the component parts it supplied to the firm described in paragraph (2) accounted for at least 20 percent of the production or sales of the workers' firm; or

(B) A loss of business by the workers' firm with the firm described in paragraph (2) contributed importantly to the workers' separation or threat of separation.

In order for an affirmative determination to be made for adversely affected workers in firms identified by the International Trade Commission and a certification issued regarding eligibility to apply for worker adjustment assistance, each of the group eligibility requirements of Section 222(f) of the Act must be met.

(1) The workers' firm is publicly identified by name by the International Trade Commission as a member of a domestic industry in an investigation resulting in—

(A) An affirmative determination of serious injury or threat thereof under section 202(b)(1);

(B) An affirmative determination of market disruption or threat thereof under section 421(b)(1); or

(C) An affirmative final determination of material injury or threat thereof under section 705(b)(1)(A) or 735(b)(1)(A) of the Tariff Act of 1930 (19 U.S.C. 1671d(b)(1)(A) and 1673d(b)(1)(A));

(2) The petition is filed during the 1-year period beginning on the date on which—

(A) A summary of the report submitted to the President by the International Trade Commission under section 202(f)(1) with respect to the affirmative determination described in paragraph (1)(A) is published in the **Federal Register** under section 202(f)(3); or

(B) Notice of an affirmative determination described in subparagraph (1) is published in the **Federal Register**; and

(3) The workers have become totally or partially separated from the workers' firm within—

(A) The 1-year period described in paragraph (2); or

(B) Notwithstanding section 223(b)(1), the 1-year period preceding the 1-year period described in paragraph (2).

Affirmative Determinations for Worker Adjustment Assistance

The following certifications have been issued. The date following the company name and location of each determination references the impact date for all workers of such determination.

The following certifications have been issued. The requirements of Section 222(a)(2)(A) (increased imports) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
81,519	Appleton Papers, Inc., Subsidiary of Paperweight Development Corporation, From Metso Paper, ABB, Ashland, BASF, Carrier, Elof Hansson, etc.	West Carrollton, OH	April 16, 2011.

The following certifications have been issued. The requirements of Section 222(a)(2)(B) (shift in production or services) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
81,441	Alticor, Inc., Access Business Group International, LLC, Amway Corp., Helpmates.	Buena Park, CA	March 23, 2011.
81,441A	Alticor, Inc., Access Business Group International, LLC, Amway Corp., Otterbase, etc.	Ada, MI	March 23, 2011.

TA–W No.	Subject firm	Location	Impact date
81,441B	Alticor, Inc., Access Business Group International, LLC, Amway Corp., Helpmates.	Lakeview, CA	March 23, 2011.
81,498	Independent Newspaper, Inc., Composing Department, A Division of Journal Register Company.	Mount Clemens, MI	March 22, 2011.
81,539	Respironics, Inc., Philips Healthcare, Finance and Accounting, Philips Holding, Adecco, etc.	Murrysville, PA	April 25, 2011.
81,552	Hewitt Associates, LLC, Technology Solutions & Services- IT Location Suppor, Aon Consulting, On-Site Workers from Spherion Staffing Services.	Lincolnshire, IL	April 17, 2011.
81,638	LexisNexis, Customer Service Dept. & Fulfillment Dept., Manpower, KForce, etc., & Remote Workers in NY Reporting to Miamisburg, OH.	Miamisburg, OH	May 18, 2011.
81,638A	LexisNexis, Customer Service Dept. & Fulfillment Dept., Manpower, Robert Half Int'l, Corestaff Services, & Kforce Technology.	Albany, NY	May 18, 2011.

The following certifications have been issued. The requirements of Section 222(f) (firms identified by the International Trade Commission) of the Trade Act have been met.

TA–W No.	Subject firm	Location	Impact date
81,572	Extrusions, Inc., Manpower, Inc	Fort Scott, KS	May 19, 2010.
81,590	Superior Extrusion, Inc	Gwinn, MI	May 19, 2010.

Negative Determinations for Worker Adjustment Assistance

In the following cases, the investigation revealed that the eligibility criteria for worker adjustment assistance have not been met for the reasons specified.

The investigation revealed that the criterion under paragraph (a)(1), or (b)(1), or (c)(1) (employment decline or threat of separation) of section 222 has not been met.

TA–W No.	Subject firm	Location	Impact date
81,631	JC Enterprise	Oak Creek, WI.	

Determinations Terminating Investigations of Petitions for Worker Adjustment Assistance

After notice of the petitions was published in the **Federal Register** and on the Department's Web site, as required by Section 221 of the Act (19 U.S.C. 2271), the Department initiated investigations of these petitions.

The following determinations terminating investigations were issued because the petitioner has requested that the petition be withdrawn.

TA–W No.	Subject firm	Location	Impact date
81,578	Diversified Machine, Inc., DMI Edon LLC	Edon, OH.	
81,618	Verifications, Inc., Verifications, Inc	Aberdeen, SD.	
81,618A	Verifications, Inc., Verifications, Inc	Mitchell, SD.	

The following determinations terminating investigations were issued because the petitions are the subject of ongoing investigations under petitions filed earlier covering the same petitioners.

TA–W No.	Subject firm	Location	Impact date
81,632	Wipro Technologies, Alliance Managers Reporting to East Brunswick	East Brunswick, NJ.	

I hereby certify that the aforementioned determinations were issued during the period of May 28, 2012 through June 1, 2012. These determinations are available on the Department's Web site *tradeact/taa/taa search form.cfm* under the searchable listing of determinations or by calling the Office of Trade Adjustment Assistance toll free at 888–365–6822.

Dated: June 6, 2012.

Elliott S. Kushner,

Certifying Officer, Office of Trade Adjustment Assistance.

[FR Doc. 2012–15846 Filed 6–27–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 9, 2012.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 9, 2012.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC, this 5th of June 2012.

Elliott S. Kushner,

Certifying Officer, Office of Trade Adjustment Assistance.

Appendix

42 TAA PETITIONS INSTITUTED BETWEEN 5/21/12 AND 6/1/12

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
81635	Communications Test Design, Inc. (Workers)	Nashville, TN	05/21/12	05/17/12
81636	Macquarie Group (State/One-Stop)	Philadelphia, PA	05/21/12	05/18/12
81637	Horton Automatics (Company)	Corpus Christi, TX	05/21/12	05/18/12
81638	LexisNexis, Customer Service Dept. & Fulfillment Dept. (Company)	Miamisburg, OH	05/21/12	05/18/12
81638A	LexisNexis, Customer Service Dept. & Fulfillment Dept. (Company)	Albany, NY	05/21/12	05/18/12
81639	Springs Global US, Inc. (Company)	Fort Mill, SC	05/21/12	05/17/12
81640	Kaiser Aluminum (State/One-Stop)	Los Angeles, CA	05/21/12	05/19/12
81641	Sierra Aluminum (State/One-Stop)	Fontana, CA	05/21/12	05/19/12
81642	C.R. Laurence (CRL) (State/One-Stop)	Los Angeles, CA	05/21/12	05/19/12
81643	Frontier Aluminum (State/One-Stop)	Corona, CA	05/21/12	05/19/12
81644	Sapa Extrusions, A Subsidiary of Sapa, Inc. (State/One-Stop)	City of Industry, CA	05/21/12	05/19/12
81645	Par Technology Corp., workers of the Ever Serve 6000 POS Terminal (State/One-Stop).	New Hartford, NY	05/22/12	05/17/12
81646	CalAmp (State/One-Stop)	Waseca, MN	05/22/12	05/21/12
81647	Sealed Air Corporation (Company)	Rochester, NY	05/22/12	05/18/12
81648	Inc Research CPU, LLC (Company)	Morgantown, WV	05/22/12	05/21/12
81649	Cigna (Workers)	Bloomfield, CT	05/22/12	05/21/12
81650	M–D Building Products (State/One-Stop)	Gainesville, GA	05/23/12	05/18/12
81651	SFI of Ohio, LLC (State/One-Stop)	New Boston, OH	05/23/12	05/22/12
81652	AISS/Sterling Infosystems, Inc. (Workers)	Independence, OH	05/23/12	05/22/12
81653	Hoku Materials (Workers)	Pocatello, ID	05/24/12	05/23/12
81654	Seagate Technology (Company)	Longmont, CO	05/24/12	04/30/12
81655	Fortis Plastics, LLC (Workers)	Carlyle, IL	05/24/12	05/23/12
81656	Phillips Foods, Inc. (Company)	Baltimore, MD	05/25/12	05/23/12
81657	Triangle Suspension Systems (Workers)	Dubois, PA	05/25/12	05/18/12
81658	Allegany Technologies, The South Plant Operations (Union)	Albany, OR	05/25/12	05/24/12
81659	Seibert Powder Coating (State/One-Stop)	Shreveport, LA	05/25/12	05/24/12
81660	Advantis Occupational Health (State/One-Stop)	Shreveport, LA	05/25/12	05/24/12
81661	Oryx Advanced Materials (Workers)	Fremont, CA	05/29/12	04/25/12
81662	Dalphis (Workers)	Memphis, TN	05/30/12	05/29/12
81663	American Express Business Travel (Workers)	Phoenix, AZ	05/30/12	05/26/12
81664	Anthem Blue Cross & Blue Shield (Company)	South Portland, ME	05/31/12	05/30/12
81665	SRC, an AETNA Company (Workers)	Columbia, SC	05/31/12	05/30/12
81666	Goodrich Landing Gear (Company)	Cleveland, OH	05/31/12	05/02/12
81667	Health Net, Inc. (Corporate Address) (Company)	Woodland Hills, CA	05/31/12	05/30/12
81668	Vertis Inc., dba Vertis Communications (State/One-Stop)	Saugerties, NY	05/31/12	05/29/12
81669	Ciber, Inc. (State/One-Stop)	Tampa, FL	05/31/12	05/29/12
81670	Magna Powertrain (Workers)	E. Syracuse, NY	05/31/12	05/29/12
81671	American Background (Workers)	Winchester, VA	05/31/12	05/22/12

42 TAA PETITIONS INSTITUTED BETWEEN 5/21/12 AND 6/1/12—Continued

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
81672	WellPoint, Inc., New York Enrollment and Billing Associates (Company).	Albany, NY	06/01/12	05/31/12
81673	Regal Beloit Corporation (Workers)	Grafton, WI	06/01/12	05/30/12
81674	Archer Trim, Inc. (Company)	Lumberton, NC	06/01/12	05/31/12
81675	Navistar (State/One-Stop)	Fort Wayne, IN	06/01/12	05/31/12

[FR Doc. 2012–15847 Filed 6–27–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Employment and Training Administration

Investigations Regarding Eligibility To Apply for Worker Adjustment Assistance

Petitions have been filed with the Secretary of Labor under Section 221(a) of the Trade Act of 1974 (''the Act'') and are identified in the Appendix to this notice. Upon receipt of these petitions, the Director of the Office of Trade Adjustment Assistance, Employment and Training Administration, has instituted investigations pursuant to Section 221(a) of the Act.

The purpose of each of the investigations is to determine whether the workers are eligible to apply for adjustment assistance under Title II, Chapter 2, of the Act. The investigations will further relate, as appropriate, to the determination of the date on which total or partial separations began or threatened to begin and the subdivision of the firm involved.

The petitioners or any other persons showing a substantial interest in the subject matter of the investigations may request a public hearing, provided such request is filed in writing with the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 9, 2012.

Interested persons are invited to submit written comments regarding the subject matter of the investigations to the Director, Office of Trade Adjustment Assistance, at the address shown below, not later than July 9, 2012.

The petitions filed in this case are available for inspection at the Office of the Director, Office of Trade Adjustment Assistance, Employment and Training Administration, U.S. Department of Labor, Room N–5428, 200 Constitution Avenue NW., Washington, DC 20210.

Signed at Washington, DC, this 14th day of June 2012.

Michael W. Jaffe,

Certifying Officer, Office of Trade Adjustment Assistance.

Appendix

22 TAA PETITIONS INSTITUTED BETWEEN 6/4/12 AND 6/8/12

TA–W	Subject firm (petitioners)	Location	Date of institution	Date of petition
81676	Gussco Manufacturing, LLC (Union)	Cedar Grove, NJ	06/04/12	06/01/12
81677	KONSTANT PRODUCTS (Company)	Quincy, IL	06/04/12	06/01/12
81678	Wheatland Tube Company (Union)	Sharon, PA	06/04/12	06/04/12
81679	INC Research CPU, LLC (Workers)	Morgantown, WV	06/04/12	05/30/12
81680	ACS, Inc. (State/One-Stop)	Frostburg, MD	06/05/12	06/04/12
81681	Diebold Incorporated (Company)	North Canton, OH	06/05/12	06/04/12
81682	The Taylor Desk Company (Workers)	Lynwood, CA	06/05/12	06/04/12
81683	Husqvarna (State/One-Stop)	Orangeburg, SC	06/05/12	06/05/12
81684	SL Montevideo Technology, Inc. (State/One-Stop)	Montevideo, MN	06/05/12	06/04/12
81685	Gardner Denver (Thomas Products Division) (State/One-Stop)	Sheboygan, WI	06/06/12	06/05/12
81686	Brookfield GRS (Workers)	Fort Washington, PA	06/06/12	06/05/12
81687	Amerbelle Textiles, LLC (State/One-Stop)	Vernon, CT	06/06/12	06/05/12
81688	OSRAM Sylvania, Inc. (Union)	St. Marys, PA	06/06/12	06/05/12
81689	Niles America Wintech (State/One-Stop)	Winchester, KY	06/06/12	06/05/12
81690	J.M.D. Fashion, Inc. (Workers)	New York, NY	06/07/12	05/28/12
81691	International Colored Gemstone Association (Company)	New York, NY	06/07/12	06/06/12
81692	AAR Corporation—Summa Technology (Company)	Cullman, AL	06/07/12	05/07/12
81693	Schlei Dray Line, Inc. (Workers)	Manitowoc, WI	06/07/12	05/29/12
81694	WellPoint, Inc. (Company)	Albany, NY	06/07/12	06/05/12
81695	WellPoint, Inc. (Company)	Middletown, NY	06/07/12	06/05/12
81696	AFNI, Inc. (State/One-Stop)	Peoria, IL	06/08/12	06/07/12
81697	Global Solar Energy, Inc. (Company)	Tucson, AZ	06/08/12	06/07/12

[FR Doc. 2012–15849 Filed 6–27–12; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification of Application of Existing Mandatory Safety Standards

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice.

SUMMARY: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and 30 CFR part 44 govern the application, processing, and disposition of petitions for modification. This notice is a summary of petitions for modification submitted to the Mine Safety and Health

Administration (MSHA) by the parties listed below to modify the application of existing mandatory safety standards codified in Title 30 of the Code of Federal Regulations.

DATES: All comments on the petitions must be received by the Office of Standards, Regulations and Variances on or before July 30, 2012.

ADDRESSES: You may submit your comments, identified by ''docket number'' on the subject line, by any of the following methods:

1. *Electronic Mail: zzMSHA-comments@dol.gov.* Include the docket number of the petition in the subject line of the message.

2. *Facsimile:* 202–693–9441.

3. *Regular Mail or Hand Delivery:* MSHA, Office of Standards, Regulations and Variances, 1100 Wilson Boulevard, Room 2350, Arlington, Virginia 22209–3939, Attention: George F. Triebsch, Director, Office of Standards, Regulations and Variances. Persons delivering documents are required to check in at the receptionist's desk on the 21st floor. Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

MSHA will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments.

FOR FURTHER INFORMATION CONTACT: Barbara Barron, Office of Standards, Regulations and Variances at 202–693–9447 (Voice), *barron.barbara@dol.gov* (Email), or 202–693–9441 (Facsimile). [These are not toll-free numbers.]

SUPPLEMENTARY INFORMATION:

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary of Labor determines that:

(1) An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or

(2) That the application of such standard to such mine will result in a diminution of safety to the miners in such mine.

In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modification.

II. Petitions for Modification

Docket Number: M–2012–115–C.

Petitioner: Little Eagle Coal Company, LLC, Three Gateway Center, Suite 1340, 401 Liberty Avenue, Pittsburgh, Pennsylvania 15222–1000.

Mine: Ike Fork 5 Block Deep Mine, MSHA I.D. No. 46–09420, located in Nicholas County, West Virginia.

Regulation Affected: 30 CFR 75.500(d) (Permissible electric equipment).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to permit the use of battery-powered nonpermissible surveying equipment in or inby the last open crosscut, including, but not limited to, portable battery-operated mine transits, total station surveying equipment, distance meters, and data loggers. The petitioner states that:

(1) To comply with requirements for mine ventilation maps and mine maps in 30 CFR 75.372 and 75.1200, use of the most practical and accurate surveying equipment is necessary.

(2) Application of the existing standard would result in a diminution of safety to the miners. Underground mining by its nature and size, and the complexity of mine plans, requires that accurate and precise measurements be completed in a prompt and efficient manner. The petitioner proposes the following as an alternative to the existing standard:

(a) Nonpermissible electronic surveying equipment will be used when equivalent permissible electronic surveying equipment is not available. Such nonpermissible surveying equipment includes portable battery-operated total station surveying equipment, mine transits, distance meters, and data loggers.

(b) All nonpermissible electronic surveying equipment to be used in or inby the last open crosscut will be examined by surveying personnel prior to use to ensure the equipment is being maintained in a safe operating condition. These examinations will include the following steps:

(i) Checking the instrument for any physical damage and the integrity of the case.

(ii) Removing the battery and inspecting for corrosion.

(iii) Inspecting the contact points to ensure a secure connection to the battery.

(iv) Reinserting the battery and powering up and shutting down to ensure proper connections.

(v) Checking the battery compartment cover to ensure that it is securely fastened.

(c) The results of such examinations will be recorded and retained for one year and made available to MSHA on request.

(d) A qualified person as defined in 30 CFR 75.151 will continuously monitor for methane immediately before and during the use of nonpermissible surveying equipment in or inby the last open crosscut.

(e) Nonpermissible surveying equipment will not be used if methane is detected in concentrations at or above one percent for the area being surveyed. When methane is detected at such levels while the nonpermissible surveying equipment is being used, the equipment will be deenergized immediately and the nonpermissible electronic equipment withdrawn outby the last open crosscut.

(f) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition as defined in 30 CFR 75.320.

(g) Batteries in the surveying equipment must be changed out or charged in fresh air outby the last open crosscut.

(h) Qualified personnel who use surveying equipment will be properly trained to recognize the hazards associated with the use of nonpermissible surveying equipment in areas where methane could be present.

(i) The nonpermissible surveying equipment will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions in this petition.

Within 60 days after the Proposed Decision and Order becomes final, the petitioner will submit proposed revisions for its approved 30 CFR part 48 training plan to the District Manager. The revisions will specify initial and refresher training regarding the terms and conditions in the Proposed Decision and Order.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection as that afforded by the existing standard.

Docket Number: M–2012–116–C.

Petitioner: Little Eagle Coal Company, LLC, Three Gateway Center, Suite 1340, 401 Liberty Avenue, Pittsburgh, Pennsylvania 15222–1000.

Mine: Ike Fork 5 Block Deep Mine, MSHA I.D. No. 46–09420, located in Nicholas County, West Virginia.

Regulation Affected: 30 CFR 75.507–1(a) (Electric equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to permit the use of battery-powered nonpermissible surveying equipment in return airways, including, but not limited to, portable battery-operated mine transits, total station surveying equipment, distance meters, and data loggers. The petitioner states that:

(1) To comply with requirements for mine ventilation maps and mine maps in 30 CFR 75.372 and 75.1200, use of the most practical and accurate surveying equipment is necessary.

(2) Application of the existing standard would result in a diminution of safety to the miners. Underground mining by its nature and size, and the complexity of mine plans, requires that accurate and precise measurements be completed in a prompt and efficient manner. The petitioner proposes the following as an alternative to the existing standard:

(a) Nonpermissible electronic surveying equipment will be used when equivalent permissible electronic surveying equipment is not available. Such nonpermissible surveying equipment includes portable battery-operated total station surveying equipment, mine transits, distance meters, and data loggers.

(b) All nonpermissible electronic surveying equipment to be used in return airways will be examined by surveying personnel prior to use to ensure the equipment is being maintained in a safe operating condition. These examinations will include the following steps:

(i) Checking the instrument for any physical damage and the integrity of the case.

(ii) Removing the battery and inspecting for corrosion.

(iii) Inspecting the contact points to ensure a secure connection to the battery.

(iv) Reinserting the battery and powering up and shutting down to ensure proper connections.

(v) Checking the battery compartment cover to ensure that it is securely fastened.

(c) The results of such examinations will be recorded and retained for one year and made available to MSHA on request.

(d) A qualified person as defined in 30 CFR 75.151 will continuously monitor for methane immediately before and during the use of nonpermissible surveying equipment in return airways.

(e) Nonpermissible surveying equipment will not be used if methane is detected in concentrations at or above one percent for the area being surveyed. When methane is detected at such levels while the nonpermissible surveying equipment is being used, the equipment will be deenergized immediately and the nonpermissible electronic equipment withdrawn out of the return airways.

(f) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition as defined in 30 CFR 75.320.

(g) Batteries in the surveying equipment must be changed out or charged in fresh air out of the return.

(h) Qualified personnel who use surveying equipment will be properly trained to recognize the hazards associated with the use of nonpermissible surveying equipment in areas where methane could be present.

(i) The nonpermissible surveying equipment will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions in this petition.

Within 60 days after the Proposed Decision and Order becomes final, the petitioner will submit proposed revisions for its approved 30 CFR part 48 training plan to the District Manager. The revisions will specify initial and refresher training regarding the terms and conditions in the Proposed Decision and Order.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection as that afforded by the existing standard.

Docket Number: M–2012–117–C.

Petitioner: Little Eagle Coal Company, LLC, Three Gateway Center, Suite 1340, 401 Liberty Avenue, Pittsburgh, Pennsylvania 15222–1000.

Mine: Ike Fork 5 Block Deep Mine, MSHA I.D. No. 46–09420, located in Nicholas County, West Virginia.

Regulation Affected: 30 CFR 75.1002(a) (Installation of electric equipment and conductors; permissibility).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to permit the use of battery-powered nonpermissible surveying equipment within 150 feet of pillar workings, including, but not limited to, portable battery-operated mine transits, total station surveying equipment, distance meters, and data loggers. The petitioner states that:

(1) To comply with requirements for mine ventilation maps and mine maps in 30 CFR 75.372 and 75.1200, use of the most practical and accurate surveying equipment is necessary. To ensure the safety of the miners in active mines and to protect miners in future mines that may mine in close proximity to these same active mines, it is necessary to determine the exact location and extent of the mine workings.

(2) Application of the existing standard would result in a diminution of safety to the miners. Underground mining by its nature and size, and the complexity of mine plans, requires that accurate and precise measurements be completed in a prompt and efficient manner. The petitioner proposes the following as an alternative to the existing standard:

(a) Nonpermissible electronic surveying equipment will be used when equivalent permissible electronic surveying equipment is not available. Such nonpermissible surveying equipment includes portable battery-operated total station surveying equipment, mine transits, distance meters, and data loggers.

(b) All nonpermissible electronic surveying equipment to be used within 150 feet of pillar workings will be examined by surveying personnel prior to use to ensure the equipment is being maintained in a safe operating condition. These examinations will include the following steps:

(i) Checking the instrument for any physical damage and the integrity of the case.

(ii) Removing the battery and inspecting for corrosion.

(iii) Inspecting the contact points to ensure a secure connection to the battery.

(iv) Reinserting the battery and powering up and shutting down to ensure proper connections.

(v) Checking the battery compartment cover to ensure that it is securely fastened.

(c) The results of such examinations will be recorded and retained for one year and made available to MSHA on request.

(d) A qualified person as defined in 30 CFR 75.151 will continuously monitor for methane immediately before and during the use of nonpermissible surveying equipment within 150 feet of pillar workings.

(e) Nonpermissible surveying equipment will not be used if methane is detected in concentrations at or above one percent for the area being surveyed. When methane is detected at such levels while the nonpermissible surveying equipment is being used, the equipment will be deenergized immediately and the nonpermissible electronic

equipment withdrawn further than 150 feet from pillar workings.

(f) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition as defined in 30 CFR 75.320.

(g) Batteries in the surveying equipment must be changed out or charged in fresh air more than 150 feet from pillar workings.

(h) Qualified personnel who use surveying equipment will be properly trained to recognize the hazards and limitations associated with the use of nonpermissible surveying equipment in areas where methane could be present.

(i) The nonpermissible surveying equipment will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions in this petition.

Within 60 days after the Proposed Decision and Order becomes final, the petitioner will submit proposed revisions for its approved 30 CFR part 48 training plan to the District Manager. The revisions will specify initial and refresher training regarding the terms and conditions in the Proposed Decision and Order.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection as that afforded by the existing standard.

Docket Number: M–2012–118–C.

Petitioner: Little Eagle Coal Company, LLC, Three Gateway Center, Suite 1340, 401 Liberty Avenue, Pittsburgh, Pennsylvania 15222–1000.

Mine: Lick Branch No. 2 Mine, MSHA I.D. No. 46–08676, located in Fayette County, West Virginia.

Regulation Affected: 30 CFR 75.500(d) (Permissible electric equipment).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to permit the use of battery-powered nonpermissible surveying equipment in or inby the last open crosscut, including, but not limited to, portable battery-operated mine transits, total station surveying equipment, distance meters, and data loggers. The petitioner states that:

(1) To comply with requirements for mine ventilation maps and mine maps in 30 CFR 75.372 and 75.1200, use of the most practical and accurate surveying equipment is necessary.

(2) Application of the existing standard would result in a diminution of safety to the miners. Underground mining by its nature and size, and the complexity of mine plans, requires that accurate and precise measurements be completed in a prompt and efficient manner. The petitioner proposes the following as an alternative to the existing standard:

(a) Nonpermissible electronic surveying equipment will be used when equivalent permissible electronic surveying equipment is not available. Such nonpermissible surveying equipment includes portable battery-operated total station surveying equipment, mine transits, distance meters, and data loggers.

(b) All nonpermissible electronic surveying equipment to be used in or inby the last open crosscut will be examined by surveying personnel prior to use to ensure the equipment is being maintained in a safe operating condition. These examinations will include the following steps:

(i) Checking the instrument for any physical damage and the integrity of the case.

(ii) Removing the battery and inspecting for corrosion.

(iii) Inspecting the contact points to ensure a secure connection to the battery.

(iv) Reinserting the battery and powering up and shutting down to ensure proper connections.

(v) Checking the battery compartment cover to ensure that it is securely fastened.

(c) The results of such examinations will be recorded and retained for one year and made available to MSHA on request.

(d) A qualified person as defined in 30 CFR 75.151 will continuously monitor for methane immediately before and during the use of nonpermissible surveying equipment in or inby the last open crosscut.

(e) Nonpermissible surveying equipment will not be used if methane is detected in concentrations at or above one percent for the area being surveyed. When methane is detected at such levels while the nonpermissible surveying equipment is being used, the equipment will be deenergized immediately and the nonpermissible electronic equipment withdrawn outby the last open crosscut.

(f) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition as defined in 30 CFR 75.320.

(g) Batteries in the surveying equipment must be changed out or charged in fresh air outby the last open crosscut.

(h) Qualified personnel who use surveying equipment will be properly trained to recognize the hazards associated with the use of nonpermissible surveying equipment in areas where methane could be present.

(i) The nonpermissible surveying equipment will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions in this petition.

Within 60 days after the Proposed Decision and Order becomes final, the petitioner will submit proposed revisions for its approved 30 CFR part 48 training plan to the District Manager. The revisions will specify initial and refresher training regarding the terms and conditions in the Proposed Decision and Order.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection as that afforded by the existing standard.

Docket Number: M–2012–119–C.

Petitioner: Little Eagle Coal Company, LLC, Three Gateway Center, Suite 1340, 401 Liberty Avenue, Pittsburgh, Pennsylvania 15222–1000.

Mine: Lick Branch No. 2 Mine, MSHA I.D. No. 46–08676, located in Fayette County, West Virginia.

Regulation Affected: 30 CFR 75.507–1(a) (Electric equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements). *Modification Request:* The petitioner requests a modification of the existing standard to permit an alternative method of compliance to permit the use of battery-powered nonpermissible surveying equipment in return airways, including, but not limited to, portable battery-operated mine transits, total station surveying equipment, distance meters, and data loggers. The petitioner states that:

(1) To comply with requirements for mine ventilation maps and mine maps in 30 CFR 75.372 and 75.1200, use of the most practical and accurate surveying equipment is necessary.

(2) Application of the existing standard would result in a diminution of safety to the miners. Underground mining by its nature and size, and the complexity of mine plans, requires that accurate and precise measurements be completed in a prompt and efficient manner. The petitioner proposes the following as an alternative to the existing standard:

(a) Nonpermissible electronic surveying equipment will be used when equivalent permissible electronic surveying equipment is not available. Such nonpermissible surveying equipment includes portable battery-operated total station surveying equipment, mine transits, distance meters, and data loggers.

(b) All nonpermissible electronic surveying equipment to be used in return airways will be examined by surveying personnel prior to use to ensure the equipment is being maintained in a safe operating condition. These examinations will include the following steps:

(i) Checking the instrument for any physical damage and the integrity of the case.

(ii) Removing the battery and inspecting for corrosion.

(iii) Inspecting the contact points to ensure a secure connection to the battery.

(iv) Reinserting the battery and powering up and shutting down to ensure proper connections.

(v) Checking the battery compartment cover to ensure that it is securely fastened.

(c) The results of such examinations will be recorded and retained for one year and made available to MSHA on request.

(d) A qualified person as defined in 30 CFR 75.151 will continuously monitor for methane immediately before and during the use of nonpermissible surveying equipment in return airways.

(e) Nonpermissible surveying equipment will not be used if methane is detected in concentrations at or above one percent for the area being surveyed. When methane is detected at such levels while the nonpermissible surveying equipment is being used, the equipment will be deenergized immediately and the nonpermissible electronic equipment withdrawn out of the return airways.

(f) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition as defined in 30 CFR 75.320.

(g) Batteries in the surveying equipment must be changed out or charged in fresh air out of the return.

(h) Qualified personnel who use surveying equipment will be properly trained to recognize the hazards associated with the use of nonpermissible surveying equipment in areas where methane could be present.

(i) The nonpermissible surveying equipment will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions in this petition.

Within 60 days after the Proposed Decision and Order becomes final, the petitioner will submit proposed revisions for its approved 30 CFR part 48 training plan to the District Manager. The revisions will specify initial and refresher training regarding the terms and conditions in the Proposed Decision and Order.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection as that afforded by the existing standard.

Docket Number: M–2012–120–C.

Petitioner: Little Eagle Coal Company, LLC, Three Gateway Center, Suite 1340, 401 Liberty Avenue, Pittsburgh, Pennsylvania 15222–1000.

Mine: Lick Branch No. 2 Mine, MSHA I.D. No. 46–08676, located in Fayette County, West Virginia.

Regulation Affected: 30 CFR 75.1002(a) (Installation of electric equipment and conductors; permissibility).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to permit the use of battery-powered nonpermissible surveying equipment within 150 feet of pillar workings, including, but not limited to, portable battery-operated mine transits, total station surveying equipment, distance meters, and data loggers. The petitioner states that:

(1) To comply with requirements for mine ventilation maps and mine maps in 30 CFR 75.372 and 75.1200, use of the most practical and accurate surveying equipment is necessary. To ensure the safety of the miners in active mines and to protect miners in future mines that may mine in close proximity to these same active mines, it is necessary to determine the exact location and extent of the mine workings.

(2) Application of the existing standard would result in a diminution of safety to the miners. Underground mining by its nature and size, and the complexity of mine plans, requires that accurate and precise measurements be completed in a prompt and efficient manner. The petitioner proposes the following as an alternative to the existing standard:

(a) Nonpermissible electronic surveying equipment will be used when equivalent permissible electronic surveying equipment is not available. Such nonpermissible surveying equipment includes portable battery-operated total station surveying equipment, mine transits, distance meters, and data loggers.

(b) All nonpermissible electronic surveying equipment to be used within 150 feet of pillar workings will be examined by surveying personnel prior to use to ensure the equipment is being maintained in a safe operating condition. These examinations will include the following steps:

(i) Checking the instrument for any physical damage and the integrity of the case.

(ii) Removing the battery and inspecting for corrosion.

(iii) Inspecting the contact points to ensure a secure connection to the battery.

(iv) Reinserting the battery and powering up and shutting down to ensure proper connections.

(v) Checking the battery compartment cover to ensure that it is securely fastened.

(c) The results of such examinations will be recorded and retained for one year and made available to MSHA on request.

(d) A qualified person as defined in 30 CFR 75.151 will continuously monitor for methane immediately before and during the use of nonpermissible surveying equipment within 150 feet of pillar workings.

(e) Nonpermissible surveying equipment will not be used if methane is detected in concentrations at or above one percent for the area being surveyed. When methane is detected at such levels while the nonpermissible surveying equipment is being used, the equipment will be deenergized immediately and the nonpermissible electronic equipment withdrawn further than 150 feet from pillar workings.

(f) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition as defined in 30 CFR 75.320.

(g) Batteries in the surveying equipment must be changed out or charged in fresh air more than 150 feet from pillar workings.

(h) Qualified personnel who use surveying equipment will be properly trained to recognize the hazards and limitations associated with the use of nonpermissible surveying equipment in areas where methane could be present.

(i) The nonpermissible surveying equipment will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions in this petition.

Within 60 days after the Proposed Decision and Order becomes final, the petitioner will submit proposed revisions for its approved 30 CFR part 48 training plan to the District Manager. The revisions will specify initial and refresher training regarding the terms and conditions in the Proposed Decision and Order.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same

measure of protection as that afforded by the existing standard.

Docket Number: M–2012–121–C.

Petitioner: Little Eagle Coal Company, LLC, Three Gateway Center, Suite 1340, 401 Liberty Avenue, Pittsburgh, Pennsylvania 15222–1000.

Mine: Little Eagle Mine No. 1, MSHA I.D. No. 46–08560, located in Clay County, West Virginia.

Regulation Affected: 30 CFR 75.500(d) (Permissible electric equipment).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to permit the use of battery-powered nonpermissible surveying equipment in or inby the last open crosscut, including, but not limited to, portable battery-operated mine transits, total station surveying equipment, distance meters, and data loggers. The petitioner states that:

(1) To comply with requirements for mine ventilation maps and mine maps in 30 CFR 75.372 and 75.1200, use of the most practical and accurate surveying equipment is necessary.

(2) Application of the existing standard would result in a diminution of safety to the miners. Underground mining by its nature and size, and the complexity of mine plans, requires that accurate and precise measurements be completed in a prompt and efficient manner. The petitioner proposes the following as an alternative to the existing standard:

(a) Nonpermissible electronic surveying equipment will be used when equivalent permissible electronic surveying equipment is not available. Such nonpermissible surveying equipment includes portable battery-operated total station surveying equipment, mine transits, distance meters, and data loggers.

(b) All nonpermissible electronic surveying equipment to be used in or inby the last open crosscut will be examined by surveying personnel prior to use to ensure the equipment is being maintained in a safe operating condition. These examinations will include the following steps:

(i) Checking the instrument for any physical damage and the integrity of the case.

(ii) Removing the battery and inspecting for corrosion.

(iii) Inspecting the contact points to ensure a secure connection to the battery.

(iv) Reinserting the battery and powering up and shutting down to ensure proper connections.

(v) Checking the battery compartment cover to ensure that it is securely fastened.

(c) The results of such examinations will be recorded and retained for one year and made available to MSHA on request.

(d) A qualified person as defined in 30 CFR 75.151 will continuously monitor for methane immediately before and during the use of nonpermissible surveying equipment in or inby the last open crosscut.

(e) Nonpermissible surveying equipment will not be used if methane is detected in concentrations at or above one percent for the area being surveyed. When methane is detected at such levels while the nonpermissible surveying equipment is being used, the equipment will be deenergized immediately and the nonpermissible electronic equipment withdrawn outby the last open crosscut.

(f) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition as defined in 30 CFR 75.320.

(g) Batteries in the surveying equipment must be changed out or charged in fresh air outby the last open crosscut.

(h) Qualified personnel who use surveying equipment will be properly trained to recognize the hazards associated with the use of nonpermissible surveying equipment in areas where methane could be present.

(i) The nonpermissible surveying equipment will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions in this petition.

Within 60 days after the Proposed Decision and Order becomes final, the petitioner will submit proposed revisions for its approved 30 CFR part 48 training plan to the District Manager. The revisions will specify initial and refresher training regarding the terms and conditions in the Proposed Decision and Order.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection as that afforded by the existing standard.

Docket Number: M–2012–122–C.

Petitioner: Little Eagle Coal Company, LLC, Three Gateway Center, Suite 1340, 401 Liberty Avenue, Pittsburgh, Pennsylvania 15222–1000.

Mine: Little Eagle Mine No. 1, MSHA I.D. No. 46–08560, located in Clay County, West Virginia.

Regulation Affected: 30 CFR 75.507–1(a) (Electric equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to permit the use of battery-powered nonpermissible surveying equipment in return airways, including, but not limited to, portable battery-operated mine transits, total station surveying equipment, distance meters, and data loggers. The petitioner states that:

(1) To comply with requirements for mine ventilation maps and mine maps in 30 CFR 75.372 and 75.1200, use of the most practical and accurate surveying equipment is necessary.

(2) Application of the existing standard would result in a diminution of safety to the miners. Underground mining by its nature and size, and the complexity of mine plans, requires that accurate and precise measurements be completed in a prompt and efficient manner. The petitioner proposes the following as an alternative to the existing standard:

(a) Nonpermissible electronic surveying equipment will be used when equivalent permissible electronic surveying equipment is not available. Such nonpermissible surveying equipment includes portable battery-operated total station surveying equipment, mine transits, distance meters, and data loggers.

(b) All nonpermissible electronic surveying equipment to be used in return airways will be examined by surveying personnel prior to use to ensure the equipment is being maintained in a safe operating condition. These examinations will include the following steps:

(i) Checking the instrument for any physical damage and the integrity of the case.

(ii) Removing the battery and inspecting for corrosion.

(iii) Inspecting the contact points to ensure a secure connection to the battery.

(iv) Reinserting the battery and powering up and shutting down to ensure proper connections.

(v) Checking the battery compartment cover to ensure that it is securely fastened.

(c) The results of such examinations will be recorded and retained for one year and made available to MSHA on request.

(d) A qualified person as defined in 30 CFR 75.151 will continuously monitor for methane immediately before and during the use of nonpermissible surveying equipment in return airways.

(e) Nonpermissible surveying equipment will not be used if methane is detected in concentrations at or above

one percent for the area being surveyed. When methane is detected at such levels while the nonpermissible surveying equipment is being used, the equipment will be deenergized immediately and the nonpermissible electronic equipment withdrawn out of the return airways.

(f) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition as defined in 30 CFR 75.320.

(g) Batteries in the surveying equipment must be changed out or charged in fresh air out of the return.

(h) Qualified personnel who use surveying equipment will be properly trained to recognize the hazards associated with the use of nonpermissible surveying equipment in areas where methane could be present.

(i) The nonpermissible surveying equipment will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions in this petition.

Within 60 days after the Proposed Decision and Order becomes final, the petitioner will submit proposed revisions for its approved 30 CFR part 48 training plan to the District Manager. The revisions will specify initial and refresher training regarding the terms and conditions in the Proposed Decision and Order.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection as that afforded by the existing standard.

Docket Number: M–2012–123–C.

Petitioner: Little Eagle Coal Company, LLC, Three Gateway Center, Suite 1340, 401 Liberty Avenue, Pittsburgh, Pennsylvania 15222–1000.

Mine: Little Eagle Mine No. 1, MSHA I.D. No. 46–08560, located in Clay County, West Virginia.

Regulation Affected: 30 CFR 75.1002(a) (Installation of electric equipment and conductors; permissibility).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to permit the use of battery-powered nonpermissible surveying equipment within 150 feet of pillar workings, including, but not limited to, portable battery-operated mine transits, total station surveying equipment, distance meters, and data loggers. The petitioner states that:

(1) To comply with requirements for mine ventilation maps and mine maps in 30 CFR 75.372 and 75.1200, use of the most practical and accurate surveying equipment is necessary. To ensure the safety of the miners in active mines and to protect miners in future mines that may mine in close proximity to these same active mines, it is necessary to determine the exact location and extent of the mine workings.

(2) Application of the existing standard would result in a diminution of safety to the miners. Underground mining by its nature and size, and the complexity of mine plans, requires that accurate and precise measurements be completed in a prompt and efficient manner. The petitioner proposes the following as an alternative to the existing standard:

(a) Nonpermissible electronic surveying equipment will be used when equivalent permissible electronic surveying equipment is not available. Such nonpermissible surveying equipment includes portable battery-operated total station surveying equipment, mine transits, distance meters, and data loggers.

(b) All nonpermissible electronic surveying equipment to be used within 150 feet of pillar workings will be examined by surveying personnel prior to use to ensure the equipment is being maintained in a safe operating condition. These examinations will include the following steps:

(i) Checking the instrument for any physical damage and the integrity of the case.

(ii) Removing the battery and inspecting for corrosion.

(iii) Inspecting the contact points to ensure a secure connection to the battery.

(iv) Reinserting the battery and powering up and shutting down to ensure proper connections.

(v) Checking the battery compartment cover to ensure that it is securely fastened.

(c) The results of such examinations will be recorded and retained for one year and made available to MSHA on request.

(d) A qualified person as defined in 30 CFR 75.151 will continuously monitor for methane immediately before and during the use of nonpermissible surveying equipment within 150 feet of pillar workings.

(e) Nonpermissible surveying equipment will not be used if methane is detected in concentrations at or above one percent for the area being surveyed. When methane is detected at such levels while the nonpermissible surveying equipment is being used, the equipment will be deenergized immediately and the nonpermissible electronic equipment withdrawn further than 150 feet from pillar workings.

(f) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition as defined in 30 CFR 75.320.

(g) Batteries in the surveying equipment must be changed out or charged in fresh air more than 150 feet from pillar workings.

(h) Qualified personnel who use surveying equipment will be properly trained to recognize the hazards and limitations associated with the use of nonpermissible surveying equipment in areas where methane could be present.

(i) The nonpermissible surveying equipment will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions in this petition.

Within 60 days after the Proposed Decision and Order becomes final, the petitioner will submit proposed revisions for its approved 30 CFR part 48 training plan to the District Manager. The revisions will specify initial and refresher training regarding the terms and conditions in the Proposed Decision and Order.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection as that afforded by the existing standard.

Docket Number: M–2012–124–C.

Petitioner: Black River Coal, LLC, Three Gateway Center, Suite 1340, 401 Liberty Avenue, Pittsburgh, Pennsylvania 15222–1000.

Mine: War Creek No. 1 Mine, MSHA I.D. No. 44–06859, located in Tazewell County, Virginia.

Regulation Affected: 30 CFR 75.500(d) (Permissible electric equipment).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to permit the use of battery-powered nonpermissible surveying equipment in or inby the last open crosscut, including, but not limited to, portable battery-operated mine transits, total station surveying equipment, distance meters, and data loggers. The petitioner states that:

(1) To comply with requirements for mine ventilation maps and mine maps in 30 CFR 75.372 and 75.1200, use of the most practical and accurate surveying equipment is necessary.

(2) Application of the existing standard would result in a diminution of safety to the miners. Underground mining by its nature and size, and the complexity of mine plans, requires that accurate and precise measurements be

completed in a prompt and efficient manner. The petitioner proposes the following as an alternative to the existing standard:

(a) Nonpermissible electronic surveying equipment will be used when equivalent permissible electronic surveying equipment is not available. Such nonpermissible surveying equipment includes portable battery-operated total station surveying equipment, mine transits, distance meters, and data loggers.

(b) All nonpermissible electronic surveying equipment to be used in or inby the last open crosscut will be examined by surveying personnel prior to use to ensure the equipment is being maintained in a safe operating condition. These examinations will include the following steps:

(i) Checking the instrument for any physical damage and the integrity of the case.

(ii) Removing the battery and inspecting for corrosion.

(iii) Inspecting the contact points to ensure a secure connection to the battery.

(iv) Reinserting the battery and powering up and shutting down to ensure proper connections.

(v) Checking the battery compartment cover to ensure that it is securely fastened.

(c) The results of such examinations will be recorded and retained for one year and made available to MSHA on request.

(d) A qualified person as defined in 30 CFR 75.151 will continuously monitor for methane immediately before and during the use of nonpermissible surveying equipment in or inby the last open crosscut.

(e) Nonpermissible surveying equipment will not be used if methane is detected in concentrations at or above one percent for the area being surveyed. When methane is detected at such levels while the nonpermissible surveying equipment is being used, the equipment will be deenergized immediately and the nonpermissible electronic equipment withdrawn outby the last open crosscut.

(f) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition as defined in 30 CFR 75.320.

(g) Batteries in the surveying equipment must be changed out or charged in fresh air outby the last open crosscut.

(h) Qualified personnel who use surveying equipment will be properly trained to recognize the hazards associated with the use of nonpermissible surveying equipment in areas where methane could be present.

(i) The nonpermissible surveying equipment will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions in this petition.

Within 60 days after the Proposed Decision and Order becomes final, the petitioner will submit proposed revisions for its approved 30 CFR part 48 training plan to the District Manager. The revisions will specify initial and refresher training regarding the terms and conditions in the Proposed Decision and Order.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection as that afforded by the existing standard.

Docket Number: M–2012–125–C.

Petitioner: Black River Coal, LLC, Three Gateway Center, Suite 1340, 401 Liberty Avenue, Pittsburgh, Pennsylvania 15222–1000.

Mine: War Creek No. 1 Mine, MSHA I.D. No. 44–06859, located in Tazewell County, Virginia.

Regulation Affected: 30 CFR 75.507–1(a) (Electric equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to permit the use of battery-powered nonpermissible surveying equipment in return airways, including, but not limited to, portable battery-operated mine transits, total station surveying equipment, distance meters, and data loggers. The petitioner states that:

(1) To comply with requirements for mine ventilation maps and mine maps in 30 CFR 75.372 and 75.1200, use of the most practical and accurate surveying equipment is necessary.

(2) Application of the existing standard would result in a diminution of safety to the miners. Underground mining by its nature and size, and the complexity of mine plans, requires that accurate and precise measurements be completed in a prompt and efficient manner. The petitioner proposes the following as an alternative to the existing standard:

(a) Nonpermissible electronic surveying equipment will be used when equivalent permissible electronic surveying equipment is not available. Such nonpermissible surveying equipment includes portable battery-operated total station surveying equipment, mine transits, distance meters, and data loggers.

(b) All nonpermissible electronic surveying equipment to be used in return airways will be examined by surveying personnel prior to use to ensure the equipment is being maintained in a safe operating condition. These examinations will include the following steps:

(i) Checking the instrument for any physical damage and the integrity of the case.

(ii) Removing the battery and inspecting for corrosion.

(iii) Inspecting the contact points to ensure a secure connection to the battery.

(iv) Reinserting the battery and powering up and shutting down to ensure proper connections.

(v) Checking the battery compartment cover to ensure that it is securely fastened.

(c) The results of such examinations will be recorded and retained for one year and made available to MSHA on request.

(d) A qualified person as defined in 30 CFR 75.151 will continuously monitor for methane immediately before and during the use of nonpermissible surveying equipment in return airways.

(e) Nonpermissible surveying equipment will not be used if methane is detected in concentrations at or above one percent for the area being surveyed. When methane is detected at such levels while the nonpermissible surveying equipment is being used, the equipment will be deenergized immediately and the nonpermissible electronic equipment withdrawn out of the return airways.

(f) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition as defined in 30 CFR 75.320.

(g) Batteries in the surveying equipment must be changed out or charged in fresh air out of the return.

(h) Qualified personnel who use surveying equipment will be properly trained to recognize the hazards associated with the use of nonpermissible surveying equipment in areas where methane could be present.

(i) The nonpermissible surveying equipment will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions in this petition.

Within 60 days after the Proposed Decision and Order becomes final, the petitioner will submit proposed revisions for its approved 30 CFR part 48 training plan to the District Manager.

The revisions will specify initial and refresher training regarding the terms and conditions in the Proposed Decision and Order.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection as that afforded by the existing standard.

Docket Number: M–2012–126–C.

Petitioner: Black River Coal, LLC, Three Gateway Center, Suite 1340, 401 Liberty Avenue, Pittsburgh, Pennsylvania 15222–1000.

Mine: War Creek No. 1 Mine, MSHA I.D. No. 44–06859, located in Tazewell County, Virginia.

Regulation Affected: 30 CFR 75.1002(a) (Installation of electric equipment and conductors; permissibility).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to permit the use of battery-powered nonpermissible surveying equipment within 150 feet of pillar workings, including, but not limited to, portable battery-operated mine transits, total station surveying equipment, distance meters, and data loggers. The petitioner states that:

(1) To comply with requirements for mine ventilation maps and mine maps in 30 CFR 75.372 and 75.1200, use of the most practical and accurate surveying equipment is necessary. To ensure the safety of the miners in active mines and to protect miners in future mines that may mine in close proximity to these same active mines, it is necessary to determine the exact location and extent of the mine workings.

(2) Application of the existing standard would result in a diminution of safety to the miners. Underground mining by its nature and size, and the complexity of mine plans, requires that accurate and precise measurements be completed in a prompt and efficient manner. The petitioner proposes the following as an alternative to the existing standard:

(a) Nonpermissible electronic surveying equipment will be used when equivalent permissible electronic surveying equipment is not available. Such nonpermissible surveying equipment includes portable battery-operated total station surveying equipment, mine transits, distance meters, and data loggers.

(b) All nonpermissible electronic surveying equipment to be used within 150 feet of pillar workings will be examined by surveying personnel prior to use to ensure the equipment is being maintained in a safe operating condition. These examinations will include the following steps:

(i) Checking the instrument for any physical damage and the integrity of the case.

(ii) Removing the battery and inspecting for corrosion.

(iii) Inspecting the contact points to ensure a secure connection to the battery.

(iv) Reinserting the battery and powering up and shutting down to ensure proper connections.

(v) Checking the battery compartment cover to ensure that it is securely fastened.

(c) The results of such examinations will be recorded and retained for one year and made available to MSHA on request.

(d) A qualified person as defined in 30 CFR 75.151 will continuously monitor for methane immediately before and during the use of nonpermissible surveying equipment within 150 feet of pillar workings.

(e) Nonpermissible surveying equipment will not be used if methane is detected in concentrations at or above one percent for the area being surveyed. When methane is detected at such levels while the nonpermissible surveying equipment is being used, the equipment will be deenergized immediately and the nonpermissible electronic equipment withdrawn further than 150 feet from pillar workings.

(f) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition as defined in 30 CFR 75.320.

(g) Batteries in the surveying equipment must be changed out or charged in fresh air more than 150 feet from pillar workings.

(h) Qualified personnel who use surveying equipment will be properly trained to recognize the hazards and limitations associated with the use of nonpermissible surveying equipment in areas where methane could be present.

(i) The nonpermissible surveying equipment will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions in this petition.

Within 60 days after the Proposed Decision and Order becomes final, the petitioner will submit proposed revisions for its approved 30 CFR part 48 training plan to the District Manager. The revisions will specify initial and refresher training regarding the terms and conditions in the Proposed Decision and Order.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection as that afforded by the existing standard.

Docket Number: M–2012–127–C.

Petitioner: Little Eagle Coal Co. LLC, Three Gateway Center, Suite 1340, 401 Liberty Avenue, Pittsburgh, Pennsylvania 15222–1000.

Mine: Rocklick Coalburg Deep Mine, MSHA I.D. No. 46–09171, located in Clay County, West Virginia.

Regulation Affected: 30 CFR 75.500(d) (Permissible electric equipment).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to permit the use of battery-powered nonpermissible surveying equipment in or inby the last open crosscut, including, but not limited to, portable battery-operated mine transits, total station surveying equipment, distance meters, and data loggers. The petitioner states that:

(1) To comply with requirements for mine ventilation maps and mine maps in 30 CFR 75.372 and 75.1200, use of the most practical and accurate surveying equipment is necessary.

(2) Application of the existing standard would result in a diminution of safety to the miners. Underground mining by its nature and size, and the complexity of mine plans, requires that accurate and precise measurements be completed in a prompt and efficient manner. The petitioner proposes the following as an alternative to the existing standard:

(a) Nonpermissible electronic surveying equipment will be used when equivalent permissible electronic surveying equipment is not available. Such nonpermissible surveying equipment includes portable battery-operated total station surveying equipment, mine transits, distance meters, and data loggers.

(b) All nonpermissible electronic surveying equipment to be used in or inby the last open crosscut will be examined by surveying personnel prior to use to ensure the equipment is being maintained in a safe operating condition. These examinations will include the following steps:

(i) Checking the instrument for any physical damage and the integrity of the case.

(ii) Removing the battery and inspecting for corrosion.

(iii) Inspecting the contact points to ensure a secure connection to the battery.

(iv) Reinserting the battery and powering up and shutting down to ensure proper connections.

(v) Checking the battery compartment cover to ensure that it is securely fastened.

(c) The results of such examinations will be recorded and retained for one year and made available to MSHA on request.

(d) A qualified person as defined in 30 CFR 75.151 will continuously monitor for methane immediately before and during the use of nonpermissible surveying equipment in or inby the last open crosscut.

(e) Nonpermissible surveying equipment will not be used if methane is detected in concentrations at or above one percent for the area being surveyed. When methane is detected at such levels while the nonpermissible surveying equipment is being used, the equipment will be deenergized immediately and the nonpermissible electronic equipment withdrawn outby the last open crosscut.

(f) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition as defined in 30 CFR 75.320.

(g) Batteries in the surveying equipment must be changed out or charged in fresh air outby the last open crosscut.

(h) Qualified personnel who use surveying equipment will be properly trained to recognize the hazards associated with the use of nonpermissible surveying equipment in areas where methane could be present.

(i) The nonpermissible surveying equipment will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions in this petition.

Within 60 days after the Proposed Decision and Order becomes final, the petitioner will submit proposed revisions for its approved 30 CFR part 48 training plan to the District Manager. The revisions will specify initial and refresher training regarding the terms and conditions in the Proposed Decision and Order.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection as that afforded by the existing standard.

Docket Number: M–2012–128–C.

Petitioner: Little Eagle Coal Co., Three Gateway Center, Suite 1340, 401 Liberty Avenue, Pittsburgh, Pennsylvania 15222–1000.

Mine: Rocklick Coalburg Deep Mine, MSHA I.D. No. 46–09171, located in Clay County, West Virginia.

Regulation Affected: 30 CFR 75.507–1(a) (Electric equipment other than power-connection points; outby the last open crosscut; return air; permissibility requirements).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to permit the use of battery-powered nonpermissible surveying equipment in return airways, including, but not limited to, portable battery-operated mine transits, total station surveying equipment, distance meters, and data loggers. The petitioner states that:

(1) To comply with requirements for mine ventilation maps and mine maps in 30 CFR 75.372 and 75.1200, use of the most practical and accurate surveying equipment is necessary.

(2) Application of the existing standard would result in a diminution of safety to the miners. Underground mining by its nature and size, and the complexity of mine plans, requires that accurate and precise measurements be completed in a prompt and efficient manner. The petitioner proposes the following as an alternative to the existing standard:

(a) Nonpermissible electronic surveying equipment will be used when equivalent permissible electronic surveying equipment is not available. Such nonpermissible surveying equipment includes portable battery-operated total station surveying equipment, mine transits, distance meters, and data loggers.

(b) All nonpermissible electronic surveying equipment to be used in return airways will be examined by surveying personnel prior to use to ensure the equipment is being maintained in a safe operating condition. These examinations will include the following steps:

(i) Checking the instrument for any physical damage and the integrity of the case.

(ii) Removing the battery and inspecting for corrosion.

(iii) Inspecting the contact points to ensure a secure connection to the battery.

(iv) Reinserting the battery and powering up and shutting down to ensure proper connections.

(v) Checking the battery compartment cover to ensure that it is securely fastened.

(c) The results of such examinations will be recorded and retained for one year and made available to MSHA on request.

(d) A qualified person as defined in 30 CFR 75.151 will continuously monitor for methane immediately before and during the use of nonpermissible surveying equipment in return airways.

(e) Nonpermissible surveying equipment will not be used if methane is detected in concentrations at or above one percent for the area being surveyed. When methane is detected at such levels while the nonpermissible surveying equipment is being used, the equipment will be deenergized immediately and the nonpermissible electronic equipment withdrawn out of the return airways.

(f) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition as defined in 30 CFR 75.320.

(g) Batteries in the surveying equipment must be changed out or charged in fresh air out of the return.

(h) Qualified personnel who use surveying equipment will be properly trained to recognize the hazards associated with the use of nonpermissible surveying equipment in areas where methane could be present.

(i) The nonpermissible surveying equipment will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions in this petition.

Within 60 days after the Proposed Decision and Order becomes final, the petitioner will submit proposed revisions for its approved 30 CFR part 48 training plan to the District Manager. The revisions will specify initial and refresher training regarding the terms and conditions in the Proposed Decision and Order.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection as that afforded by the existing standard.

Docket Number: M–2012–129–C.

Petitioner: Little Eagle Coal Co., Three Gateway Center, Suite 1340, 401 Liberty Avenue, Pittsburgh, Pennsylvania 15222–1000.

Mine: Rocklick Coalburg Deep Mine, MSHA I.D. No. 46–09171, located in Clay County, West Virginia.

Regulation Affected: 30 CFR 75.1002(a) (Installation of electric equipment and conductors; permissibility).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance to permit the use of battery-powered nonpermissible surveying equipment within 150 feet of pillar workings, including, but not limited to, portable battery-operated mine transits, total station surveying equipment, distance meters, and data loggers. The petitioner states that:

(1) To comply with requirements for mine ventilation maps and mine maps in 30 CFR 75.372 and 75.1200, use of the most practical and accurate surveying equipment is necessary. To ensure the safety of the miners in active mines and to protect miners in future mines that may mine in close proximity to these same active mines, it is necessary to determine the exact location and extent of the mine workings.

(2) Application of the existing standard would result in a diminution of safety to the miners. Underground mining by its nature and size, and the complexity of mine plans, requires that accurate and precise measurements be completed in a prompt and efficient manner. The petitioner proposes the following as an alternative to the existing standard:

(a) Nonpermissible electronic surveying equipment will be used when equivalent permissible electronic surveying equipment is not available. Such nonpermissible surveying equipment includes portable battery-operated total station surveying equipment, mine transits, distance meters, and data loggers.

(b) All nonpermissible electronic surveying equipment to be used within 150 feet of pillar workings will be examined by surveying personnel prior to use to ensure the equipment is being maintained in a safe operating condition. These examinations will include the following steps:

(i) Checking the instrument for any physical damage and the integrity of the case.

(ii) Removing the battery and inspecting for corrosion.

(iii) Inspecting the contact points to ensure a secure connection to the battery.

(iv) Reinserting the battery and powering up and shutting down to ensure proper connections.

(v) Checking the battery compartment cover to ensure that it is securely fastened.

(c) The results of such examinations will be recorded and retained for one year and made available to MSHA on request.

(d) A qualified person as defined in 30 CFR 75.151 will continuously monitor for methane immediately before and during the use of nonpermissible surveying equipment within 150 feet of pillar workings.

(e) Nonpermissible surveying equipment will not be used if methane is detected in concentrations at or above one percent for the area being surveyed. When methane is detected at such levels while the nonpermissible surveying equipment is being used, the equipment will be deenergized immediately and the nonpermissible electronic equipment withdrawn further than 150 feet from pillar workings.

(f) All hand-held methane detectors will be MSHA-approved and maintained in permissible and proper operating condition as defined in 30 CFR 75.320.

(g) Batteries in the surveying equipment must be changed out or charged in fresh air more than 150 feet from pillar workings.

(h) Qualified personnel who use surveying equipment will be properly trained to recognize the hazards and limitations associated with the use of nonpermissible surveying equipment in areas where methane could be present.

(i) The nonpermissible surveying equipment will not be put into service until MSHA has initially inspected the equipment and determined that it is in compliance with all the terms and conditions in this petition.

Within 60 days after the Proposed Decision and Order becomes final, the petitioner will submit proposed revisions for its approved 30 CFR part 48 training plan to the District Manager. The revisions will specify initial and refresher training regarding the terms and conditions in the Proposed Decision and Order.

The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection as that afforded by the existing standard.

Docket Number: M–2012–130–C.

Petitioner: Roaring Creek Coal Company, LLC, A subsidiary of United Coal Company, LLC and Metinvest Holdings, P.O. Box 1148, Elkins, West Virginia 26241.

Mine: Roaring Creek Mine, MSHA I.D. No. 46–09401, located in Randolph County, West Virginia.

Regulation Affected: 30 CFR 77.1914(a) (Electrical equipment).

Modification Request: The petitioner requests a modification of the existing standard to permit the use of nonpermissible low-voltage electronic testing, diagnostic, measurement, and survey equipment in all areas underground during slope and bottom development. The equipment includes digital cameras; laptop computers; video bore scopes; oscilloscopes; vibration analysis machines; cable fault detectors; point temperature probes; infrared temperature devices; insulation testers (meggers); voltage, current, and power measurement devices; signal analyzer devices; ultrasonic thickness gauges; electronic component testers; electronic tachometers; total stations; electronic distance meters; battery drills; and data collectors. The petitioner states that the proposed alternative method will include the following proposed protections:

(a) All other electronic testing, diagnostic, measurement, and survey equipment used during slope and bottom development will be permissible.

(b) Other testing, diagnostic, measurement, and survey equipment may be used under this petition for modification if that equipment is approved in advance by MSHA's District Manager.

(c) All nonpermissible testing and diagnostic equipment used during slope and bottom development will be examined, by a qualified person as defined in existing 30 CFR 75.153 or by 30 CFR 77.100, prior to use to ensure that the equipment is being maintained in a safe operating condition. The examination results will be recorded in the weekly examination book and will be made available to an authorized representative of the Secretary and the miners at the mine.

(d) A qualified person as defined in 30 CFR 75.151 or by 30 CFR 77.101 will continuously monitor for methane immediately before and during the use of nonpermissible low-voltage electronic testing, diagnostic, measurement, or survey equipment used during slope and bottom development.

(e) Nonpermissible low-voltage electronic testing, diagnostic, measurement, or survey equipment will not be used if methane is detected in concentrations at or above 1.0 percent. When 1.0 percent or more of methane is detected while the nonpermissible low-voltage electronic equipment is being used, the equipment will be deenergized immediately.

(f) All hand-held methane detectors will be MSHA approved and maintained in permissible and proper operating condition as defined in 30 CFR 75.320.

(g) Except for the time necessary to troubleshoot under actual mining conditions, production in the section will cease. However, mined material may remain in or on the equipment to test and diagnose the equipment under ''load.''

(h) Nonpermissible low-voltage electronic test, diagnostic, measurement, or survey equipment will not be used when float coal dust is in suspension in the area.

(i) All low-voltage electronic test, diagnostic, measurement, and survey equipment will be used in accordance with the manufacturer's recommended safe use procedures.

(j) Qualified personnel engaged in the use of electronic test, diagnostic, measurement, or survey equipment will be properly trained to recognize the hazards and limitations associated with the use of electronic test, diagnostic, measurement, or survey equipment.

(k) Any piece of equipment subject to this petition will be inspected by an authorized MSHA representative prior to initially placing it in service underground.

Within 60 days after the Proposed Decision and Order becomes final, the petitioner will submit proposed revisions for its approved 30 CFR part 48 training plan to the District Manager. These proposed revisions will specify initial and refresher training regarding the terms and conditions stated in the Proposed Decision and Order.

The petitioner asserts that the proposed alternative method will at all times provide no less than the same measure of protection afforded by the existing standard.

Dated: June 22, 2012.

George F. Triebsch,

Director, Office of Standards, Regulations and Variances.

[FR Doc. 2012–15803 Filed 6–27–12; 8:45 am]

BILLING CODE 4510–43–P

MERIT SYSTEMS PROTECTION BOARD

Membership of the Merit Systems Protection Board's Performance Review Board

AGENCY: Merit Systems Protection Board.

ACTION: Notice.

SUMMARY: Notice is hereby given of the members of the Merit Systems Protection Board's Performance Review Board.

DATES: June 28, 2012.

FOR FURTHER INFORMATION CONTACT: Marion Hines at 202–254–4413 or *marion.hines@mspb.gov.*

SUPPLEMENTARY INFORMATION: The Merit Systems Protection Board is publishing the names of the current and new members of the Performance Review Board (PRB) as required by 5 U.S.C. 4314(c)(4). William D. Spencer continues to serve as Chairman of the PRB. Amy V. Dunning is a new member of the PRB, and William L. Boulden continues to serve as a member of the PRB.

William D. Spencer,

Clerk of the Board.

[FR Doc. 2012–15802 Filed 6–27–12; 8:45 am]

BILLING CODE 7400–01–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (12–054)]

NASA Advisory Council; Technology and Innovation Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Technology and Innovation Committee of the NASA Advisory Council (NAC).

DATES: Tuesday, July 24, 2012, 8:00 a.m. to 2:50 p.m., Local Time.

ADDRESSES: NASA Goddard Space Flight Center, Building 8, Management Conference Center, 8800 Greenbelt Road, Greenbelt, Maryland 20771.

FOR FURTHER INFORMATION CONTACT: Mr. Mike Green, Office of the Chief Technologist, NASA Headquarters, Washington, DC 20546, phone (202) 358–4710, fax (202) 358–4078, or email *g.m.green@nasa.gov.*

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. The agenda for the meeting includes the following topics:

—Office of the Chief Technologist Update.
—Status of NASA's Space Technology Program.
—Briefing and Review of NASA's Draft Strategic Space Technology Investment Plan.
—Update on NASA's Technology Transfer and Commercialization Efforts.
—Overview of Technology Activities at NASA Goddard Space Flight Center.

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. All attendees will be requested to sign a register and to comply with NASA security requirements. Visitors must show a valid State or Federal issued picture ID, green card, or passport, before receiving an access badge to enter GSFC and must state that they are attending the NAC's Technology and Innovation Committee meeting in Building 8. All U.S. citizens and green card holders desiring to attend must provide their full name, company affiliation (if applicable), and citizenship to Mike Green via email at *g.m.green@nasa.gov* or by telephone at (202) 358–4710 no later than close of business on July 16, 2012. Foreign Nationals must provide the following information: full name, gender, date/place of birth, citizenship, home address, visa information (number, type, expiration date), passport information (number, country of issue, expiration date), employer/affiliation information (name of institution, title/position, address, country of employer, telephone, email address), and an electronically scanned or faxed copy of their passport and visa to Mike Green via email at *g.m.green@nasa.gov* or by fax at (202) 358–4078 no later than close of business on July 11, 2012. If the above information is not received by the noted dates, attendees should expect a minimum delay of two (2) hours. All visitors to this meeting will report to the GSFC Main Gate where they will be processed through security prior to entering GSFC. For security questions on the day of the meeting, please call Debbie Brasel at (301) 286–6876 or email *Deborah.A.Brasel@nasa.gov.*

Susan M. Burch,

Acting, Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2012–15860 Filed 6–27–12; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (12–052)]

NASA Advisory Council; Commercial Space Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–462, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Commercial Space Committee of the NASA Advisory Council (NAC). This Committee reports to the NAC. The meeting will be held for the purpose of soliciting, from the scientific community and other persons, scientific and technical information relevant to program planning.

DATES: Monday, July 23, 2012, 12:30 p.m.–5:00 p.m.; and Tuesday, July 24, 2012, 10:00 a.m.–2:00 p.m.; Local Time.

ADDRESSES: NASA Goddard Space Flight Center (GSFC), Building 1, Room E100B, 8800 Greenbelt Road, Greenbelt, MD 20771.

FOR FURTHER INFORMATION CONTACT: Mr. Thomas W. Rathjen, Human Exploration and Operations Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–0552, fax (202) 358–2885, or *thomas.rathjen-1@nasa.gov.*

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. This meeting is also available telephonically and by WebEx. For the July 23 meeting, any interested person may call the USA toll-free conference call number (888) 790–5969, pass code 7234039, to participate in this meeting by telephone. The WebEx link is *https://nasa.webex.com/,* the meeting number is 990 063 483, and the password is CSC@July23.

The agenda for the meeting includes the following topics:

—Goddard Space Flight Center's Commercial Space Activities and Plans

—Acquisition Process Lessons—Learned for the Evolved Expendable Launch Vehicle Program

—Results of the Recent SpaceX Commercial Orbital Transportation Services Demonstration Mission to International Space Station

—Joint Session with the NAC Human Exploration and Operations (HEO) Committee, and NAC Audit, Finance and Analysis Committee; on Commercial Orbital Transportation Services/Commercial Crew Development and an Overview of Contracting Options.

The joint session with the NAC HEO Committee, and the NAC Audit, Finance and Analysis Committee, will take place on Tuesday, July 24, 2012, 10:00 a.m.–1:00 p.m., Local Time at NASA Goddard Space Flight Center (GSFC), Building 1, Room E100D, 8800 Greenbelt Road, Greenbelt, MD 20771. Any interested person may call the USA toll-free conference call number (877) 877–951–7311, pass code 9070300, to participate in this meeting by telephone. The WebEx link is *https://nasa.webex.com/,* the meeting number 390 981 454, and the password is July23+24.

At 1:00 p.m. Local Time, the NAC Commercial Space Committee's meeting will move to NASA Goddard Space Flight Center (GSFC), Building 1, Room E100H, 8800 Greenbelt Road, Greenbelt, MD 20771, until 2:00 p.m. Local Time. Any interested person may call the USA toll free conference call number (888) 790–5969, pass code 7234039, to participate in this meeting by telephone. The WebEx link is *https://nasa.webex.com/,* the meeting number is 990 063 483, and the password is CSC@July23.

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. All attendees will be requested to sign a register and to comply with NASA security requirements. Visitors must show a valid State or Federal issued picture ID, green card, or passport, before receiving an access badge to enter into GSFC and must state that they are attending the NAC's Commercial Space Committee meeting in Building 1. All U.S. citizens and green card holders desiring to attend must provide their full name, company affiliation (if applicable), and citizenship to Thomas Rathjen via email at *thomas.rathjen-1@nasa.gov* by telephone at (202) 358–0552 no later than the close of business July 16, 2012. Foreign Nationals must provide following information: full name, gender, date/place of birth, citizenship, home address, visa information (number, type, expiration date), passport information (number, country of issue, expiration date), employer/affiliation information (name of institution, title/position, address, country of employer, telephone, email address), and an electronically scanned or faxed copy of their passport and visa to Thomas Rathjen via email at *thomas.rathjen-1@nasa.gov* or by fax at (202) 358–2885 no later than close of business July 11, 2012. If the above information is not received by the noted dates, attendees should expect a minimum delay of two (2) hours. All visitors to this meeting will report to the GSFC Main Gate where they will be processed through security prior to entering GSFC. For security questions on the day of the meeting, please call Debbie Brasel at (301) 286–6876 or email *Deborah.A.Brasel@nasa.gov.*

Susan M. Burch,

Acting, Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2012–15858 Filed 6–27–12; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice (12–053)]

NASA Advisory Council; Audit, Finance and Analysis Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–463, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Audit, Finance and Analysis Committee of the NASA Advisory Council (NAC).

DATES: Monday, July 23, 2012, 9:00 a.m.–4:45 p.m.; and Tuesday, July 24, 2012, 10:00 a.m.–1:00 p.m.; Local Time.

ADDRESSES: On July 23, 2012: Goddard Space Flight Center (GSFC), Building 1, Room E100H, 8800 Greenbelt Road, Greenbelt, MD 20771–0001. On July 24, 2012: GSFC, Building 1, Room E100D, 8800 Greenbelt Road, Greenbelt, MD 20771–0001. (Note that visitors will first need to go to the GSFC Main Gate to gain access.)

FOR FURTHER INFORMATION CONTACT: Ms. Charlene Williams, Office of the Chief Financial Officer, NASA Headquarters, Washington, DC, 20546, email *charlene.williams-1@nasa.gov* or phone (202) 358–2183.

SUPPLEMENTARY INFORMATION: The agenda for the meeting includes briefings on the following topics:

- General Financial Management
- Financial Statement Audit
- Unfunded Environmental Liability (Financial Statement Audit)
- Information Technology (Financial Statement Audit)
- Financial Systems
- Financial Management—Goddard Space Flight Center
- Joint Session with the NAC Human Exploration and Operations (HEO) Committee, and NAC Commercial Space Committee; on Commercial Orbital Transportation Services/Commercial Crew Development and an Overview of Contracting Options The Joint Session with the NAC HEO Committee, and the NAC Commercial Space Committee, will take place on Tuesday, July 24, 2012, 10:00 a.m.–1:00 p.m., Local Time, at NASA Goddard Space Flight Center (GSFC), Building 1, Room E100D, 8800 Greenbelt Road, Greenbelt, MD 20771. Any interested person may call the USA toll-free conference call number (877) 951–7311, pass code 9070300, to participate in this meeting by telephone. The WebEx link is *https://nasa.webex.com/,* the meeting number is 390 981 454, and the password is July 23+24.

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. All attendees will be required to sign a register and to comply with NASA security requirements. Visitors must show valid State or

Federal issued picture ID, green card, or passport, before receiving an access badge to enter into GSFC and must state that they are attending the NAC's Audit, Finance and Analysis Committee meeting in Building 1. All U.S. citizens and green card holders desiring to attend must provide their full name, company affiliation (if applicable), and citizenship to Charlene Williams via email at *charlene.williams-1@nasa.gov* or by telephone at (202) 358–2183 no later than close of business on July 16, 2012. Foreign Nationals must provide the following information: full name, gender, date/place of birth, citizenship, home address, visa information (number, type, expiration date), passport information (number, country of issue, expiration date), employer/affiliation information (name of institution, title/position, address, country of employer, telephone, email address), and an electronically scanned or faxed copy of their passport and visa to Charlene Williams via email at *charlene.williams-1@nasa.gov* or by fax at (202) 358–4336 no later than close of business on July 11, 2012. If the above information is not received by the noted dates, attendees should expect a minimum delay of two (2) hours. All visitors to this meeting will report to the GSFC Main Gate where they will be processed through security prior to entering GSFC. For security questions on the day of the meeting, please call Debbie Brasel at (301) 286–6876 or email *Deborah.A.Brasel@nasa.gov.*

Susan M. Burch,

Acting, Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2012–15859 Filed 6–27–12; 8:45 am]

BILLING CODE 7510–13–P

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[Notice 12–051]

NASA Advisory Council; Human Exploration and Operations Committee; Meeting

AGENCY: National Aeronautics and Space Administration.

ACTION: Notice of meeting.

SUMMARY: In accordance with the Federal Advisory Committee Act, Public Law 92–462, as amended, the National Aeronautics and Space Administration (NASA) announces a meeting of the Human Exploration and Operations Committee (HEO) of the NASA Advisory Council (NAC). This Committee reports to the NAC. The meeting will be held for the purpose of soliciting, from the scientific community and other persons, scientific and technical information relevant to program planning.

DATES: Monday, July 23, 2012, 9:30 a.m.–5:40 p.m., and Tuesday, July 24, 2012, 8:45 a.m.–2:00 p.m., Local Time.

ADDRESSES: NASA Goddard Space Flight Center (GSFC), Building 1, Room E100D, 8800 Greenbelt Road, Greenbelt, MD 20771.

FOR FURTHER INFORMATION CONTACT: Ms. Bette Siegel, Human Exploration and Operations Mission Directorate, NASA Headquarters, Washington, DC 20546, (202) 358–2245, fax (202) 358–2886, or *bette.siegel@nasa.gov.*

SUPPLEMENTARY INFORMATION: The meeting will be open to the public up to the capacity of the room. This meeting is also available telephonically and by WebEx. Any interested person may call the USA toll-free conference call number (877) 951–7311, pass code 9070300, to participate in this meeting by telephone. The WebEx link is *https://nasa.webex.com/*, the meeting number for both days, July 23 and July 24, is 390 981 454, and the password is July23+24. The agenda for the meeting includes the following topics:

—Status of the Human Exploration and Operations Mission Directorate
—Status of International Space Station
—Space Launch System/Orion
—Status of Center for the Advancement of Science in Space
—Joint Session with the NAC Science Committee on Mars Program Planning Group and Joint Robotic Precursor Activities

The Joint Session with the NAC Science Committee will take place on Monday, July 23, 2012, from 1:00 p.m. to 3:30 p.m., Local Time at NASA Goddard Space Flight Center (GSFC), Building 1, Room E100E, 8800 Greenbelt Road, Greenbelt, MD 20771. Any interested person may call the USA toll-free conference call number (800) 369–1786, pass code Science Committee, to participate in this meeting by telephone. The WebEx link is *https://nasa.webex.com/*, the meeting number is 990 388 822, and the password is SC@July23.

—Joint Session with the NAC Commercial Space Committee, and NAC Audit, Finance and Analysis Committee; on Commercial Orbital Transportation Services/Commercial Crew Development and an Overview of Contracting Options

The Joint Session with the NAC Commercial Space Committee, and NAC Audit, Finance and Analysis Committee, will take place on Tuesday, July 24, 2012, from 10:00 a.m. to 1:00 p.m., Local Time, in the same location.

It is imperative that the meeting be held on these dates to accommodate the scheduling priorities of the key participants. All attendees will be requested to sign a register and to comply with NASA security requirements. Visitors must show a valid State or Federal issued picture ID, green card, or passport, before receiving an access badge to enter into GSFC and must state that they are attending the NAC's Human Exploration and Operations Committee meeting in Building 1. All US citizens and green card holders desiring to attend must provide their full name, company affiliation (if applicable), and citizenship to Bette Siegel via email at *bette.siegel@nasa.gov* or by telephone at (202) 358–2245 no later than the close of business July 16, 2012. Foreign Nationals must provide following information: Full name, gender, date/place of birth, citizenship, home address, visa information (number, type, expiration date), passport information (number, country of issue, expiration date), employer/affiliation information (name of institution, title/position, address, country of employer, telephone, email address), and an electronically scanned or faxed copy of their passport and visa to Bette Siegel via email at *bette.siegel@nasa.gov* or by fax at (202) 358–2886 no later than close of business July 11, 2012. If the above information is not received by the noted dates, attendees should expect a minimum delay of two (2) hours. All visitors to this meeting will report to the GSFC Main Gate where they will be processed through security prior to entering GSFC. For security questions on the day of the meeting, please call Debbie Brasel at (301) 286–6876 or email *Deborah.A.Brasel@nasa.gov*.

Patricia D. Rausch,

Advisory Committee Management Officer, National Aeronautics and Space Administration.

[FR Doc. 2012–15814 Filed 6–27–12; 8:45 am]

BILLING CODE 7510–13–P

NUCLEAR REGULATORY COMMISSION

Advisory Committee On Reactor Safeguards (ACRS) Meeting of the ACRS Subcommittee on Reliability and PRA; Notice of Meeting

The ACRS Subcommittee on Reliability and PRA will hold a meeting on July 26–27, 2012, Room T–2B1,

11545 Rockville Pike, Rockville, Maryland.

The entire meeting will be open to public attendance.

The agenda for the subject meeting shall be as follows:

Thursday, July 26, 2012—8:30 a.m. Until 5:00 p.m.; Friday, July 27, 2012—8:30 a.m. Until 12:00 p.m.

The Subcommittee will be briefed on the technical findings of licensees' fire protection program transition to NFPA–805. The Subcommittee will hear presentations by and hold discussions with the NRC staff, licensees, industry, and other interested persons regarding this matter. The Subcommittee will gather information, analyze relevant issues and facts, and formulate proposed positions and actions, as appropriate, for deliberation by the Full Committee.

Members of the public desiring to provide oral statements and/or written comments should notify the Designated Federal Official (DFO), John Lai (Telephone 301–415–5197 or Email: *John.Lai@nrc.gov*) five days prior to the meeting, if possible, so that appropriate arrangements can be made. Thirty-five hard copies of each presentation or handout should be provided to the DFO thirty minutes before the meeting. In addition, one electronic copy of each presentation should be emailed to the DFO one day before the meeting. If an electronic copy cannot be provided within this timeframe, presenters should provide the DFO with a CD containing each presentation at least thirty minutes before the meeting. Electronic recordings will be permitted only during those portions of the meeting that are open to the public. Detailed procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on October 17, 2011, (76 FR 64126–64127).

Detailed meeting agendas and meeting transcripts are available on the NRC Web site at *http://www.nrc.gov/reading-rm/doc-collections/acrs.* Information regarding topics to be discussed, changes to the agenda, whether the meeting has been canceled or rescheduled, and the time allotted to present oral statements can be obtained from the Web site cited above or by contacting the identified DFO. Moreover, in view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with these references if such rescheduling would result in a major inconvenience.

If attending this meeting, please enter through the One White Flint North building, 11555 Rockville Pike, Rockville, MD. After registering with security, please contact Mr. Theron Brown (240–888–9835) to be escorted to the meeting room.

Dated: June 21, 2012.

Antonio Dias,

Technical Advisor, Advisory Committee on Reactor Safeguards.

[FR Doc. 2012–15844 Filed 6–27–12; 8:45 am]

BILLING CODE 7590–01–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for review: Presidential Management Fellows (PMF) Application, 3206–0082

AGENCY: U.S. Office of Personnel Management.

ACTION: 60-day notice and request for comments.

SUMMARY: The Office of Personnel Management (OPM) offers the general public and other Federal agencies the opportunity to comment on a revised information collection request (ICR) 3206–0082, Presidential Management Fellows (PMF) Application. As required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35), as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection on behalf of the Office of Management and Budget. The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

DATES: Comments are encouraged and will be accepted until August 27, 2012. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to the U.S. Office of Personnel Management, Attention: Juanita Wheeler, 1900 E Street NW., Room 1425, Washington, DC 20415, or sent via electronic mail to pmf@opm.gov.

FOR FURTHER INFORMATION CONTACT: A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the U.S. Office of Personnel Management, Attention: Juanita Wheeler, 1900 E Street NW., Room 1425, Washington, DC 20415, or sent via electronic mail to pmf@opm.gov.

SUPPLEMENTARY INFORMATION: Executive Order 13562, Recruiting and Hiring Students and Recent Graduates, and implementing regulations increased the applicant window of eligibility and removed the school nomination requirement. Students seeking advanced degrees and those who completed an advanced degree within the previous two years will use the application to apply for the Presidential Management Fellows Program. They will no longer be required to have a school nomination. OPM expects this will increase the number of applicants from years past. Information on the PMF Program can be found at *www.pmf.gov.*

Analysis

Agency: Employee Services, U.S. Office of Personnel Management.

Title: Presidential Management Fellows (PMF) Application.

OMB Number: 3206–0082.

Affected Public: Current graduate students and individuals who obtained an advanced degree within the previous two years.

Number of Respondents: 25,000.

Estimated Time per Respondent: 13 minutes.

Total Burden Hours: 5417 hours.

U.S. Office of Personnel Management.

John Berry,

Director.

[FR Doc. 2012–15850 Filed 6–27–12; 8:45 am]

BILLING CODE 6325–38–P

OFFICE OF PERSONNEL MANAGEMENT

Submission for Review: Health Benefits Election Form, OPM 2809

AGENCY: U.S. Office of Personnel Management.

ACTION: 60-day notice and request for comments.

SUMMARY: The Retirement Services, Office of Personnel Management (OPM) offers the general public and other federal agencies the opportunity to comment on a revised information collection request (ICR) 3206–0141, Health Benefits Election Form. As required by the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35) as amended by the Clinger-Cohen Act (Pub. L. 104–106), OPM is soliciting comments for this collection. The Office of Management and Budget is particularly interested in comments that:

1. Evaluate whether the proposed collection of information is necessary for the proper performance of functions of the agency, including whether the information will have practical utility;

2. Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

3. Enhance the quality, utility, and clarity of the information to be collected; and

4. Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

DATES: Comments are encouraged and will be accepted until August 27, 2012. This process is conducted in accordance with 5 CFR 1320.1.

ADDRESSES: Interested persons are invited to submit written comments on the proposed information collection to U.S. Office of Personnel Management, Attention: Alberta Butler, Union Square Room US 370, 1900 E Street NW., Washington, DC 20415–3500, or sent via electronic mail to *Alberta.Butler@opm.gov.*

FOR FURTHER INFORMATION CONTACT: A copy of this ICR with applicable supporting documentation, may be obtained by contacting the Retirement Services Publications Team, U.S. Office of Personnel Management, 1900 E Street NW., Room 4332, Washington, DC 20415, Attention: Cyrus S. Benson, or sent via electronic mail to *Cyrus.Benson@opm.gov* or faxed to (202) 606–0910.

SUPPLEMENTARY INFORMATION: OPM 2809 is used by annuitants and former spouses to elect, cancel, suspend, or change health benefits enrollment during periods other than open season.

Analysis

Agency: Retirement Operations, Retirement Services, Office of Personnel Management.

Title: Health Benefits Election Form.

OMB Number: 3206–0141.

Frequency: On occasion.

Affected Public: Individuals or Households.

Number of Respondents: 30,000.

Estimated Time per Respondent: 30 minutes.

Total Burden Hours: 15,000 hours.

U.S. Office of Personnel Management.

John Berry,

Director.

[FR Doc. 2012–15856 Filed 6–27–12; 8:45 am]

BILLING CODE 6325–38–P

POSTAL REGULATORY COMMISSION

Sunshine Act Meetings

TIME AND DATE: Tuesday, July 10, 2012, at 11 a.m.

PLACE: Commission Hearing Room, 901 New York Avenue NW., Suite 200, Washington, DC 20268–0001.

STATUS: Part of this meeting will be open to the public. The rest of the meeting will be closed to the public. The open session will be audiocast. The audiocast may be accessed via the Commission's Web site at *http://www.prc.gov.* A period for public comment will be offered following consideration of the last numbered item in the open session.

MATTERS TO BE CONSIDERED: The agenda for the Commission's July 10, 2012 meeting includes the items identified below.

PORTIONS OPEN TO THE PUBLIC:

1. Report on legislative activities.
2. Report on communications with the public.
3. Report on status of Commission dockets.
4. Report from the Office of the Secretary and Administration.
5. Report from the Office of Accountability and Compliance.
6. Report on international activities.
7. Presentation to Commissioners on the Biological Medical Countermeasures program (including the Postal Model for Delivery and Distribution) by representatives of the U.S. Department of Health and Human Services.

Chairman's public comment period.

PORTION CLOSED TO THE PUBLIC:

8. Discussion of pending litigation.

CONTACT PERSON FOR MORE INFORMATION: Stephen L. Sharfman, General Counsel, Postal Regulatory Commission, 901 New York Avenue NW., Suite 200, Washington, DC 20268–0001, at 202–789–6820 (for agenda-related inquiries) and Shoshana M. Grove, Secretary of the Commission, at 202–789–6800 or *shoshana.grove@prc.gov* (for inquiries related to meeting location, access for handicapped or disabled persons, the audiocast, or similar matters).

By the Commission.

Dated: June 25, 2012.

Shoshana M. Grove,

Secretary.

[FR Doc. 2012–15922 Filed 6–26–12; 11:15 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2012–34; Order No. 1375]

Product List Changes

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recently-filed Postal Service request to enter into an additional Global Expedited Package Services 3 contracts. This notice addresses procedural steps associated with this filing.

DATES: *Comments are due:* June 29, 2012.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Commenters who cannot submit their views electronically should contact the person identified in **FOR FURTHER INFORMATION CONTACT** by telephone for advice on alternatives to electronic filing.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Commission Action
III. Ordering Paragraphs

I. Introduction

Notice of filing. On June 21, 2012, the Postal Service filed a notice announcing that it is entering into an additional Global Expedited Package Services (GEPS) 3 contract.[1] The Notice was filed in accordance with 39 CFR 3015.5. Notice at 1.

Background. Customers for GEPS contracts are small- or medium-size

[1] Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 3 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, June 21, 2012 (Notice).

businesses that mail products directly to foreign destinations using Express Mail International, Priority Mail International, or both. *Id.* at 4. Governors' Decision No. 08–7 (as GEPS 1) established prices and classifications not of general applicability for GEPS contracts. *Id.* at 1. A grouping for GEPS 3 contracts was later added to the competitive product list as an outcome of Docket Nos. MC2010–28 and CP2010–71. The contract filed in Docket No. CP2010–71 was designated as the baseline agreement for purposes of establishing whether subsequent agreements proposed for inclusion within the GEPS 3 grouping are functionally equivalent. *Id.* at 1–2.

Contents of filing. The filing includes a Notice, along with attachments; material filed under seal (consisting of the contract and supporting documents); and Excel spreadsheets. In the Notice, the Postal Service asserts that the instant contract and the baseline contract are functionally equivalent because they share similar cost and market characteristics. *Id.* at 3. It notes that the pricing formula and classification established in the controlling Governors' Decision No. 08–7 ensure that each GEPS contract meets the criteria of 39 U.S.C. 3633 and related regulations. *Id.* The Postal Service identifies differences between the instant contract and the baseline contract, but asserts that the differences do not affect either the fundamental service being offered or the fundamental structure of the contract. *Id.* at 3–6. The Postal Service also addresses pertinent Mail Classification Schedule matters. *Id.* at 3. It states that, based on the discussion in its Notice and the financial data provided under seal, the instant GEPS 3 contract is in compliance with the requirements of 39 U.S.C. 3633 and is functionally equivalent to the baseline contract, and therefore should be added to the GEPS 3 product grouping.

Supporting attachments include:

- Attachment 1—a redacted copy of the instant contract;
- Attachment 2—the related certification required under 39 CFR 3015.5(c)(2);
- Attachment 3—a redacted copy of Governors' Decision No. 08–7 (including attachments thereto); and
- Attachment 4—an application for non-public treatment of the materials filed under seal.

Expiration. The agreement is set to expire one year after the Postal Service notifies the customer that all necessary approvals and reviews of the agreement have been obtained, including a favorable conclusion by the Commission. *Id.*

II. Commission Action

The Commission establishes Docket No. CP2012–34 for consideration of matters raised in the Notice. Interested persons may submit comments on whether the Postal Service's contract is consistent with the policies of 39 U.S.C. 3632 and 3633. Comments are due no later than June 29, 2012. The public portions of the Postal Service's filing can be accessed via the Commission's Web site at *http://www.prc.gov.*

The Commission appoints Derrick D. Dennis to represent the interest of the general public (Public Representative) in this case.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. CP2012–34 for consideration of matters raised in the Postal Service's June 21, 2012 Notice.
2. Pursuant to 39 U.S.C. 505, the Commission designates Derrick D. Dennis to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this case.
3. Comments by interested persons are due no later than June 29, 2012.
4. The Secretary shall arrange for publication of this Order in the **Federal Register**.

By the Commission.

Ruth Ann Abrams,

Acting Secretary.

[FR Doc. 2012–15771 Filed 6–27–12; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL REGULATORY COMMISSION

[Docket No. CP2012–35; Order No. 1376]

Product List Changes

AGENCY: Postal Regulatory Commission.

ACTION: Notice.

SUMMARY: The Commission is noticing a recently-filed Postal Service request to enter into an additional Global Expedited Package Services 3 contracts. This notice addresses procedural steps associated with this filing.

DATES: *Comments are due:* June 29, 2012.

ADDRESSES: Submit comments electronically via the Commission's Filing Online system at *http://www.prc.gov.* Commenters who cannot submit their views electronically should contact the person identified in **FOR FURTHER INFORMATION CONTACT** by telephone for advice on alternatives to electronic filing.

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, General Counsel at 202–789–6820.

SUPPLEMENTARY INFORMATION:

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I. Introduction
II. Commission Action
III. Ordering Paragraphs

I. Introduction

Notice of filing. On June 21, 2012, the Postal Service filed a notice announcing that it is entering into an additional Global Expedited Package Services (GEPS) 3 contract.[1] The Notice was filed in accordance with 39 CFR 3015.5. Notice at 1.

Background. Customers for GEPS contracts are small- or medium-size businesses that mail products directly to foreign destinations using Express Mail International, Priority Mail International, or both. *Id.* at 4. Governors' Decision No. 08–7 (as GEPS 1) established prices and classifications not of general applicability for GEPS contracts. *Id.* at 1. A grouping for GEPS 3 contracts was later added to the competitive product list as an outcome of Docket Nos. MC2010–28 and CP2010–71. The contract filed in Docket No. CP2010–71 was designated as the baseline agreement for purposes of establishing whether subsequent agreements proposed for inclusion within the GEPS 3 grouping are functionally equivalent. *Id.* at 1–2.

Contents of filing. The filing includes a Notice, along with attachments; material filed under seal (consisting of the contract and supporting documents); and Excel spreadsheets. In the Notice, the Postal Service asserts that the instant contract and the baseline contract are functionally equivalent because they share similar cost and market characteristics. *Id.* at 3. It notes that the pricing formula and classification established in the controlling Governors' Decision No. 08–7 ensure that each GEPS contract meets the criteria of 39 U.S.C. 3633 and related regulations. *Id.* The Postal Service identifies differences between the instant contract and the baseline contract, but asserts that the differences do not affect either the fundamental service being offered or the fundamental structure of the contract. *Id.* at 3–6. The Postal Service also addresses pertinent Mail Classification Schedule matters. *Id.* at 3. It states that, based on the

[1] Notice of United States Postal Service of Filing a Functionally Equivalent Global Expedited Package Services 3 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, June 21, 2012 (Notice).

discussion in its Notice and the financial data provided under seal, the instant GEPS 3 contract is in compliance with the requirements of 39 U.S.C. 3633 and is functionally equivalent to the baseline contract, and therefore should be added to the GEPS 3 product grouping.

Supporting attachments include:

- Attachment 1—a redacted copy of the instant contract;
- Attachment 2—the related certification required under 39 CFR 3015.5(c)(2);
- Attachment 3—a redacted copy of Governors' Decision No. 08–7 (including attachments thereto); and
- Attachment 4—an application for non-public treatment of the contract and certain supporting materials.

Expiration. The agreement is set to expire one year after the Postal Service notifies the customer that all necessary approvals and reviews of the agreement have been obtained, including a favorable conclusion by the Commission. *Id.*

II. Commission Action

The Commission establishes Docket No. CP2012–35 for consideration of matters raised in the Notice. Interested persons may submit comments on whether the Postal Service's contract is consistent with the policies of 39 U.S.C. 3632 and 3633. Comments are due no later than June 29, 2012. The public portions of the Postal Service's filing can be accessed via the Commission's Web site at *http://www.prc.gov.*

The Commission appoints Derrick D. Dennis to represent the interest of the general public (Public Representative) in this case.

III. Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. CP2012–35 for consideration of matters raised in the Postal Service's June 21, 2012 Notice.

2. Pursuant to 39 U.S.C. 505, the Commission designates Derrick D. Dennis to serve as an officer of the Commission (Public Representative) to represent the interests of the general public in this case.

3. Comments by interested persons are due no later than June 29, 2012.

4. The Secretary shall arrange for publication of this Order in the **Federal Register**.

By the Commission.

Ruth Ann Abrams,

Acting Secretary.

[FR Doc. 2012–15775 Filed 6–27–12; 8:45 am]

BILLING CODE 7710–FW–P

POSTAL SERVICE

Product Change—Express Mail & Priority Mail Negotiated Service Agreement

AGENCY: Postal Service.™

ACTION: Notice.

SUMMARY: The Postal Service gives notice of filing a request with the Postal Regulatory Commission to add a domestic shipping services contract to the list of Negotiated Service Agreements in the Mail Classification Schedule's Competitive Products List.

DATES: June 28, 2012.

FOR FURTHER INFORMATION CONTACT: Elizabeth A. Reed, 202–268–3179.

SUPPLEMENTARY INFORMATION: The United States Postal Service® hereby gives notice that, pursuant to 39 U.S.C. 3642 and 3632(b)(3), on June 21, 2012, it filed with the Postal Regulatory Commission a *Request of the United States Postal Service to Add Express Mail & Priority Mail Contract 9 to Competitive Product List.* Documents are available at *www.prc.gov,* Docket Nos. MC2012–29, CP2012–38.

Stanley F. Mires,

Attorney, Legal Policy & Legislative Advice.

[FR Doc. 2012–15780 Filed 6–27–12; 8:45 am]

BILLING CODE 7710–12–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67238; File No. SR–MSRB–2012–04]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Order Granting Approval of a Proposed Rule Change, as Modified by Amendment No. 1, Relating to Proposed Rule G–43, on Broker's Brokers; Proposed Amendments to Rule G–8, on Books and Records, Rule G–9, on Record Retention, and Rule G–18, on Execution of Transactions; and a Proposed Interpretive Notice on the Duties of Dealers That Use the Services of Broker's Brokers

June 22, 2012.

I. Introduction

On March 5, 2012, the Municipal Securities Rulemaking Board (''MSRB'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'') [1] and Rule 19b–4 thereunder,[2] a proposed rule change consisting of proposed MSRB Rule G–43, on broker's brokers; amendments to MSRB Rule G–8, on books and records; amendments to MSRB Rule G–9, on record retention; amendments to MSRB Rule G–18, on execution of transactions; and a proposed interpretive notice on duties of dealers that use the services of broker's brokers (''Proposed Notice''). The proposed rule change was published for comment in the **Federal Register** on March 26, 2012.[3] The Commission received six comment letters regarding the proposal.[4] On May 3, 2012, the MSRB submitted a response to the comment letters [5] and filed Amendment No. 1 to the proposed rule change.[6] On May 9, 2012, the Commission designated a longer period to act on the proposed rule change, until June 22, 2012.[7] This order grants approval of the proposed rule change, as modified by Amendment No. 1 thereto.

II. Description of the Proposed Rule Change

Broker's brokers, who act as intermediaries between selling dealers and bidding dealers, serve an important function in providing liquidity for investors in the municipal securities

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 66625 (March 20, 2012), 77 FR 17548 (''Notice'').

[4] *See* Letters to Elizabeth M. Murphy, Secretary, Commission, from John Webber, Chief Compliance Officer, Advisors Asset Management, Inc., dated April 16, 2012 (''AAM Letter''); Michael Nicholas, Chief Executive Officer, Bond Dealers of America, dated April 16, 2012 (''BDA Letter''); Thomas S. Vales, Chief Executive Officer, TMC Bonds, LLC, received April 16, 2012 (''TMC Letter''); Mark J. Epstein, President & Chief Executive Officer, Hartfield, Titus & Donnelly, dated April 18, 2012 (''HTD Letter''); Paige W. Pierce, President & Chief Executive Officer, RW Smith & Associates, Inc., received April 19, 2012 (''RWS Letter''); and August J. Hoerrner, Senior Managing Director, Chapdelaine Tullett Prebon, LLC, dated May 16, 2012 (''CTP Letter''). The comment letters received by the Commission are available at *http://www.sec.gov/comments/sr-msrb-2012–04/msrb201204.shtml.*

[5] *See* Letter to Elizabeth M. Murphy, Secretary, Commission, from Margaret C. Henry, General Counsel, Market Regulation, MSRB, dated May 3, 2012 (''MSRB Response'').

[6] Amendment No. 1 would partially amend the text of the original proposed rule change to clarify that (i) MSRB Rule G–43(c)(i)(N) would only prohibit a broker's broker from accepting a new bid or a changed bid from a bidder in a bid-wanted after the broker's broker has notified that same bidder whether its bid was the high bid (*i.e.,* ''being used'') in the same bid-wanted; and (ii) a municipal security would be considered ''traded'' through a broker's broker within the meaning of MSRB Rule G–43(d)(iv) when it has been purchased by the broker's broker from the seller and sold to the bidder by the broker's broker, as an intermediary. Because the changes made in Amendment No. 1 do not materially alter the substance of the proposed rule change or raise any novel regulatory issues, Amendment No. 1 is not subject to notice and comment.

[7] Securities Exchange Act Release No. 66954, 77 FR 28653 (May 15, 2012).

market. Broker's brokers are subject to general standards, such as MSRB Rules G–17 and G–18, concerning their conduct in the municipal securities market. MSRB Rule G–17 requires broker's brokers to deal fairly and not engage in any ''deceptive, dishonest, or unfair practice.'' [8] MSRB Rule G–18 requires that they make reasonable efforts to obtain a fair and reasonable price in relation to prevailing market conditions.[9]

Despite these general standards of care, concerns have arisen regarding the conduct of broker's brokers. Recent Commission and Financial Industry Regulatory Authority (''FINRA'') enforcement actions have highlighted misconduct in the broker's broker industry with respect to their municipal securities activities.[10] This has raised concerns about the integrity of broker's brokers bid-wanted and offering processes.

As a result, the MSRB has proposed additional, detailed rules and interpretive guidance that apply to the conduct of broker's brokers and other brokers, dealers, and municipal securities dealers (collectively ''dealers'') in the municipal securities market. Specifically, the MSRB proposes new MSRB Rule G–43; to amend MSRB Rules G–8, G–9, and G–18; and to issue interpretive guidance for dealers that use broker's brokers. The MSRB has requested that the proposed rule change be made effective six months after approval by the Commission.

A. MSRB Rule G–43

Definition of Broker's Broker. The MSRB proposes to define a broker's broker as ''a dealer, or a separately operated and supervised division or unit of a dealer, that principally effects transactions for other dealers or that holds itself out as a broker's broker,'' whether as a separate company or as part of a larger company.[11] An alternative trading system (''ATS'') registered with the Commission will not be considered a broker's broker for purposes of MSRB Rule G–43 if it meets the following criteria with respect to its municipal securities activities: (1) The ATS utilizes only automated and electronic means to communicate with bidders and sellers in a systematic and non-discretionary fashion (with the exception of communications that are solely clerical or ministerial in nature and communications that occur after a trade has been executed); (2) the ATS limits customers to sophisticated municipal market professionals (SMMPs), as defined in MSRB Rule D–9; and (3) the ATS adopts and complies with specified policies and procedures.[12]

Duty of Broker's Broker. MSRB Rule G–43(a)(i) would require a broker's broker, in executing a transaction in municipal securities for or on behalf of another dealer, to make a reasonable effort to obtain a price for the dealer that was fair and reasonable in relation to prevailing market conditions and employ the same care and diligence in doing so as if the transaction were being done for its own account. The MSRB states that MSRB Rule G–43(a)(i) incorporates the same basic duty currently found in MSRB Rule G–18.[13]

Under MSRB Rule G–43(a)(ii), a broker's broker that undertakes to act for or on behalf of another dealer in connection with a transaction or potential transaction in municipal securities would be prohibited from taking any action that would work against that dealer's interest to receive advantageous pricing. MSRB Rule G–43(a)(iii) would establish a presumption that a broker's broker is acting for or on behalf of the seller[14] in a bid-wanted, unless both the seller and bidders agreed otherwise in writing in advance of the bid-wanted.

Safe Harbor in Conduct of Bid-Wanteds. The MSRB proposes to create a safe harbor for broker's brokers in conducting bid-wanteds. Under the safe harbor, a broker's broker would satisfy its pricing duty under proposed subsection (a)(i) if it conducts bid-wanteds in the manner described in MSRB Rule G–43(b). A broker's broker, unless otherwise directed by the seller,[15] would be required to make a reasonable effort to disseminate a bid-wanted widely.[16] If securities are of limited interest, the broker's broker must make a reasonable effort to reach dealers with specific knowledge of the issue or known interest in comparable securities.[17] Further, each bid-wanted must have either a ''sharp'' deadline or an ''around time'' deadline for the acceptance of bids or changes to bids.[18]

To avail itself of the safe harbor, a broker's broker must adopt predetermined parameters designed to identify possible bids that do not represent the fair market value of the municipal securities subject to the bid-wanted.[19] In addition, the broker's broker must test the predetermined parameters periodically to determine whether they are achieving their purpose.[20] If the high bid is outside of the predetermined parameters and the broker's broker believes that the bid might have been submitted in error, the broker's broker may contact the high bidder about its bid price prior to the deadline for bids without the seller's consent.[21] However, if the high bid is

[8] *See* MSRB Rule G–17.

[9] *See* MSRB Rule G–18.

[10] *See* Notice, 77 FR at 17549 n.4. *See also FINRA* v. *Associated Bond Brokers, Inc.* Letter of Acceptance, Waiver and Consent No. E052004018001 (November 19, 2007) (settlement in connection with alleged violation of MSRB Rule G–17 by broker's broker due to lowering the highest bids to prices closer to the cover bids without informing either bidders or sellers); *FINRA* v. *Butler Muni, LLC* Letter of Acceptance, Waiver and Consent No. 2006007537201 (May 28, 2010) (settlement in connection with alleged violation of MSRB Rule G–17 by broker's broker due to failure to inform the seller of higher bids submitted by the highest bidders); *D. M. Keck & Company, Inc. d/b/a Discount Munibrokers, et al.,* Securities Exchange Act Release No. 56543 (September 27, 2007) (settlement in connection with alleged violation of MSRB Rules G–13 and G–17 by broker's broker for dissemination of fake cover bids to both seller and winning bidder; also settlement in connection with alleged violation of MSRB Rules G–14 and G–17 by broker's broker due to payment to seller of more than highest bid on some trades in return for a price lower than the highest bid on other trades, in each case reporting the fictitious trade prices to the MSRB's Real-Time Trade Reporting System); *Regional Brokers, Inc. et al.,* Securities Exchange Act Release No. 56542 (September 27, 2007) (settlement in connection with alleged violation of Rules G–13 and G–17 by broker's broker for dissemination of fake cover bids to both seller and winning bidder; broker's broker allegedly violated MSRB Rule G–17 by accepting bids after bid deadline); *SEC* v. *Wolfe & Hurst Bond Brokers, Inc. et al.,* Securities Exchange Act Release No. 59913 (May 13, 2009) (settlement in connection with alleged violation of MSRB Rule G–17 by broker's broker for dissemination of fake cover bids to both seller and winning bidder and for lowering of the highest bids to prices closer to the cover bids without informing either bidders or sellers). These cases also involved violations of MSRB Rules G–8, G–9, and G–28.

[11] *See* MSRB Rule G–43(d)(iii).

[12] *See id.* As proposed, the policies and procedures an ATS adopts must, at a minimum, require the ATS to (1) disclose the nature of its undertakings for the seller and bidder in bid-wanteds and offerings; (2) disclose the manner in which it will conduct bid-wanteds and offerings; and (3) prohibit the ATS from engaging in the conduct described in MSRB Rule G–43(c)(i)(H)–(O) (described more fully below).

[13] The MSRB has proposed deleting text from MSRB Rule G–18 to eliminate duplication relating to this pricing duty as it will be covered by MSRB Rule G–43(a)(i). *See* Notice, 77 FR at 17550.

[14] The MSRB proposes to define a ''seller'' as the selling dealer, or potentially selling dealer, in a bid-wanted or offering and would not include the customer of a selling dealer. *See* MSRB Rule G–43(d)(ix).

[15] *See infra* Section I.C (summarizing interpretive guidance noting that selling dealers that direct broker's brokers to filter certain bidders from the receipt of bid-wanteds or offerings should be able to demonstrate the reasons for filtering, that it is for valid business reasons, and that it is not anti-competitive).

[16] *See* MSRB Rule G–43(b)(i).

[17] *See* MSRB Rule G–43(b)(ii).

[18] *See* MSRB Rule G–43(b)(iii).

[19] *See* MSRB Rule G–43(c)(i)(F).

[20] *See id.*

[21] *See* MSRB Rule G–43(b)(iv).

within the predetermined parameters, the broker's broker must obtain the seller's oral or written consent before contacting the bidder to determine whether the bid was submitted in error.[22]

Finally, the broker's broker would be required to disclose to the seller if the highest bid received in a bid-wanted is below the predetermined parameters and receive the seller's oral or written acknowledgement of the disclosure before proceeding with the trade.[23] According to the MSRB, this notice would inform the selling dealer that the high bid in a bid-wanted might be off-market and not representative of the fair market value.[24] The selling dealer would then need to satisfy itself that the high bid was, in fact, fair and reasonable if it wished to purchase the securities from its customer at that price as a principal.[25]

Policies and Procedures. The MSRB proposes to establish policies and procedures that a broker's broker must adopt and comply with in the operation of bid-wanteds and offerings for municipal securities.[26] According to the MSRB, MSRB Rule G–43(c) is designed to ensure that bid-wanteds and offerings are conducted in a fair manner.[27] MSRB Rule G–43(c) would apply to all bid-wanteds and offerings, including bid-wanteds conducted under the safe harbor in MSRB Rule G–43(b).[28] While many of the requirements of MSRB Rule G–43(c) address behavior that would also be a violation of MSRB Rule G–17, MSRB Rule G–43(c) would not supplant the requirements of MSRB Rule G–17.[29]

A broker's broker would be required, among other things, to describe the manner in which it will conduct its bid-wanteds and offerings.[30] Additionally, if a broker's broker conducts bid-wanteds not in accordance with the safe harbor under MSRB Rule G–43(b), it must describe in detail how it will satisfy its obligations under MSRB Rule G–43(a)(i).[31] If a broker's broker allows customers or affiliates of the broker's broker to place bids, the broker's broker must disclose that fact to both sellers and bidders in writing, and must disclose to the seller prior to a transaction if the high bid in a bid-wanted or offering is from a customer or an affiliate (but would not need to disclose the name of the customer or affiliate).[32] MSRB Rule G–43(c)(i)(H) would prohibit a broker's broker from maintaining municipal securities in any proprietary or other accounts, other than for clearance and settlement purposes.

Once a broker's broker has selectively informed a bidder whether its bid is being used in the bid-wanted, the broker's broker cannot accept a changed bid or a new bid in the same bid-wanted.[33] In Amendment No. 1, the MSRB proposed amending MSRB Rule G–43(c)(i)(N) to clarify that it would prohibit a broker's broker only from accepting a new bid or a changed bid from a bidder in a bid-wanted after the broker's broker has notified that same bidder whether its bid was the high bid (''being used'') in the same bid-wanted. According to the MSRB's statements in Amendment No. 1, MSRB Rule G–43(c)(i)(N), as originally proposed, might otherwise have been read to prohibit new or changed bids from any bidders after another bidder has been informed of whether its bid was being used in a bid-wanted, which was not the MSRB's intent.

Until the completion of a bid-wanted, a broker's broker would be prohibited from disclosing information about bid prices to anyone other than the seller and winning bidder unless the broker's broker makes such information available to all market participants on an equal basis at no cost while disclosing that the bids may not be representative of fair market value and that it is making this information public.[34] A bid-wanted will be considered ''completed'' when either (A) the security is traded, whether through the broker's broker or otherwise, or (B) the broker's broker is notified by the seller that the security will not trade.[35] In Amendment No. 1, the MSRB proposed adding paragraph (x) to MSRB Rule G–43(d), which would clarify that a municipal security would be considered to have ''traded'' through a broker's broker when it has been purchased by the broker's broker from the seller and sold to the bidder by the broker's broker, as an intermediary.[36]

B. Recordkeeping Requirements

The MSRB proposes amending MSRB Rules G–8 and G–9 to establish recordkeeping requirements for broker's brokers and ATSs in connection with their municipal securities activities. According to the MSRB, the proposed amendments would assist in the enforcement of MSRB Rule G–43.[37] A broker's broker would be required to keep records of bids; offers; changed bids and offers; the time of notification to the seller of the high bid; the policies and procedures of the broker's broker concerning bid-wanteds and offerings; and any agreements by which bidders and sellers agree to joint representation by the broker's broker.[38] In addition, a broker's broker would be required to keep records of communications with bidders and sellers regarding possibly erroneous bids; [39] communications with sellers when the high bid is below predetermined parameters; [40] and the setting of predetermined parameters.[41] The MSRB proposes requiring these records be maintained for six years.[42]

C. Notice to Dealers that Use the Services of Broker's Brokers

The Proposed Notice provides guidance on the roles and duties of other transaction participants (*i.e.,* brokers, dealers, and municipal securities dealers) that sell and bid for municipal securities in bid-wanteds and offerings conducted by broker's brokers. Dealers that submit bids to broker's brokers that they believe are below the fair market value of the securities or that submit ''throw-away'' bids to broker's brokers would violate MSRB Rule G–13.[43] The Proposed Notice would also remind selling dealers that use the services of broker's brokers that they have an independent duty under MSRB Rule G–30 to determine that the prices

[22] *See id.* In all events, under MSRB Rule G–43(c)(i)(D), the broker's broker must notify the seller if the high bidder's bid or the cover bid had been changed prior to execution and provide the seller with the original and changed bids.

[23] *See* MSRB Rule G–43(b)(v).

[24] *See* Notice, 77 FR at 17550.

[25] *See id. See also infra* Section I.C. (highlighting existing duties of dealers regarding fair and reasonable prices).

[26] *See* MSRB Rule G–43(c)(i).

[27] *See* Notice, 77 FR at 17550.

[28] *See id.*

[29] *See id.*

[30] *See* MSRB Rule G–43(c)(i)(B).

[31] *See* MSRB Rule G–43(c)(i)(G).

[32] *See* MSRB Rule G–43(c)(i)(E).

[33] *See* MSRB Rule G–43(c)(i)(N).

[34] *See* MSRB Rule G–43(c)(i)(O).

[35] *See* MSRB Rule G–43(d)(iv).

[36] Because a broker's broker is an intermediary and would be prohibited by MSRB Rule G–43(c)(i)(H) from engaging in proprietary trading, a trade through a broker's broker would have two sides: a purchase from the seller and a sale to the bidder. The term ''traded'' would be used in MSRB Rule G–43(d)(iv), which would define when a bid-wanted is considered ''completed.'' This characterization of a trade for purposes of MSRB Rule G–43 does not affect how trades are to be treated under any other MSRB rule, including but not limited to MSRB Rule G–14 on reports of sales or purchases.

[37] *See* Notice, 77 FR at 17550.

[38] *See id.* The MSRB also proposes recordkeeping requirements for ATSs with respect to their municipal securities activities. *See* MSRB Rule G–8(a)(xxvi). A broker's broker or ATS that is a separately operated and supervised division or unit of another dealer must keep separately maintained or separately extractable records of its municipal securities activities. *See* MSRB Rule G–8(a)(xxv)(K), (xxvi)(D). *See also infra* note 65 and accompanying text (discussing the comparability in recordkeeping requirements for broker's brokers and ATSs).

[39] *See* MSRB Rule G–8(a)(xxv)(D).

[40] *See* MSRB Rule G–8(a)(xxv)(E).

[41] *See* MSRB Rule G–8(a)(xxv)(J).

[42] *See* MSRB Rule G–9(a)(xii)–(xiii).

[43] *See* Notice, 77 FR at 17551.

at which they purchase municipal securities as principal from their customers are fair and reasonable.[44] In addition, a selling dealer that directs broker's brokers to filter certain bidders from the receipt of bid-wanteds should be able to demonstrate the reasons for filtering and that it is for valid business reasons, not anti-competitive behavior.[45] The Proposed Notice also urges selling dealers not to assume that their customers need to liquidate their securities immediately without inquiring as to their customers' particular circumstances and discussing with their customers the possible improved pricing benefit associated with taking additional time to liquidate their securities.[46] Finally, the Proposed Notice provides that, depending upon the facts and circumstances, the use of bid-wanteds by selling dealers solely for price discovery purposes, with no intention of selling the securities through the broker's brokers, may be an unfair practice within the meaning of MSRB Rule G–17.[47]

III. Summary of Comments Received and the MSRB's Response

As previously noted, the Commission received six comment letters on the proposed rule change.[48] Three of the commenters expressed general support for the proposed rule change.[49] However, two of the commenters questioned the need for the proposed rule change; [50] one objected to the definition of ''broker's broker''; [51] two asked for clarification related to the exemption for ATSs from the definition of broker's broker; [52] one questioned the presumption that a broker's broker acts for the seller in a bid-wanted; [53] four expressed concerns with the requirement to adopt policies and procedures to disclose customers and affiliates; [54] two objected to the predetermined parameters aspect of the safe harbor; [55] one objected to the prohibition on holding municipal securities; [56] and one opposed the recordkeeping requirement of MSRB Rule G–8.[57]

[44] *See* Notice, 77 FR at 17550.

[45] *See id.*

[46] *See id.*

[47] *See* Notice, 77 FR at 17550–51.

[48] *See supra* note 4.

[49] *See* CTP Letter, RWS Letter, TMC Letter.

[50] *See* AAM Letter, BDA Letter.

[51] *See* AAM Letter.

[52] *See* BDA Letter, TMC Letter.

[53] *See* BDA Letter.

[54] *See* BDA Letter, CTP Letter, HTD Letter, RWS Letter.

[55] *See* BDA Letter, TMC Letter.

[56] *See* AAM Letter.

[57] *See* BDA Letter.

A. General Opposition to the Proposed Rule Change

Advisors Asset Management, Inc. (''AAM'') and the Bond Dealers of America (''BDA'') questioned the need for MSRB Rule G–43 and said current MSRB rules and prior enforcement actions have proven sufficient to address the behaviors the proposed rule change is intended to address.[58] In its response, the MSRB stated its belief that a specific rule governing the conduct of broker's brokers is warranted. While MSRB Rule G–17 is broad in its scope and could be used to address much of the conduct of broker's brokers described in Commission and FINRA enforcement proceedings, the MSRB believes that broker's brokers need more explicit direction as to the appropriate conduct of bid-wanteds and offerings. The MSRB believes it can sometimes be difficult for enforcement agencies to prove that conduct is fraudulent, and alleged violators of MSRB Rule G–17 sometimes argue that they have not been put properly on notice of the type of conduct that is considered unfair. The MSRB notes that MSRB Rule G–43 would not replace MSRB Rule G–17, which is an overarching rule and applies even when there is a more specific rule on point.

B. Definition of Broker's Broker

AAM believes that the proposed definition of broker's broker is extraordinarily broad, and suggested a more detailed definition of broker's broker that includes the nature, role, duties, and responsibilities of a broker's broker. The MSRB stated its continued belief that a functional definition of broker's broker is appropriate. According to the MSRB, the Securities Industry and Financial Markets Association (''SIFMA'') made a similar comment in response to an earlier draft of MSRB Rule G–43. The MSRB responded then that the definition proposed by SIFMA would make it easy for a firm to escape classification as a broker's broker and, accordingly, avoid application of the rules for broker's brokers. For example, a firm could simply carry customer accounts and avoid classification as a broker's broker because part of SIFMA's proposed definition is that the firm does not carry customer accounts. In comparison, the MSRB believes its definition focuses on the key function of a broker's broker—effecting transactions in municipal securities on behalf of other dealers.

AAM also believes that the MSRB has not defined or provided sufficient guidance regarding what it means for a dealer to ''hold[] itself out as a broker's broker'' and should be omitted. The MSRB has previously noted that selling dealers rely on broker's brokers as trusted intermediaries and that a selling dealer should be entitled to rely on the representations of another dealer that it is functioning as a broker's broker. According to the MSRB, a dealer should not call itself a broker's broker if it does not want to be subject to MSRB Rule G–43 (and should not be able to avoid the provisions of MSRB Rule G–43 simply by not calling itself a broker's broker).

[58] *See* AAM Letter, BDA Letter.

C. ATS Exemption From Definition of Broker's Broker

BDA requested that the MSRB clarify the types of communications engaged in by ATSs that would be considered ''clerical or ministerial.'' The MSRB noted that MSRB Rule G–3 (which provides that an individual whose duties are solely clerical and ministerial is not required to pass an MSRB professional qualifications examination) already provides guidance on what communications are clerical or ministerial. Examples of clerical or ministerial communications would be customer service types of communications, such as IT questions. Any type of communication that could only be engaged in by an individual that is licensed under MSRB Rule G–3 would not be considered to be clerical or ministerial.

TMC Bonds, LLC (''TMC'') stated its belief that an ATS should be allowed to provide voice support without being considered a broker's broker, and suggested that software support that helps users navigate a large amount of data would be precluded under the definition. In its response, the MSRB expressed concerns regarding voice communication between ATS traders and bidders. If traders have access to information about bids, there is no way to ensure that they do not engage in the same types of activities that have been the subject of enforcement actions against traditional voice brokers (*e.g.,* bid coaching by the broker). The MSRB noted that some purely electronic ATSs have developed mechanisms for bidders to request automatic electronic alerts when securities of the type in which they have interest are available on the ATS. Software support, in comparison, would likely fall into the category of clerical or ministerial communications, which are not precluded by the definition.

D. Broker's Broker As Representative of Seller

BDA believes that the presumption that a broker's broker acts for or on behalf of the seller in a bid-wanted for municipal securities unless both the seller and bidders agree otherwise in writing in advance of the bid-wanted may discourage potential buyers from bidding and reduce liquidity in the municipal securities market. The MSRB disagreed with BDA's comment. According to the MSRB, many broker's brokers require their clients, including dealers, to sign agreements prior to effecting trades through them. If a broker's broker desires to represent bidders as well as sellers in bid-wanteds, it could simply include a clause in client agreements. Sellers and bidders could then decide whether to execute the agreement and thereby agree to dual representation.

E. Disclosure of Customers and Affiliates

BDA, Chapdelaine Tullett Prebon, LLC (''CTP''), Hartfield, Titus & Donnelly (''HTD''), and RW Smith & Associates, Inc. (''RWS'') objected to the portion of MSRB Rule G–43(c)(i)(E) concerning pre-trade disclosure by the broker's broker to the selling dealer of the fact that the high bidder is a customer of the broker's broker. BDA also objected to the portion of that rule requiring pre-trade disclosure if the high bidder is an affiliate of the broker's broker. One concern was that such disclosures would be inconsistent with the counter-party anonymity provided by most broker's brokers. In its response, the MSRB reiterated that the primary role of a broker's broker is that of a trusted intermediary between selling and bidding dealers. The MSRB is concerned that a broker's broker effecting trades with a customer or an affiliate is presented with conflicts of interest that should be disclosed, but noted that the proposed rule would not require disclosure of the name of the customer or affiliate.

F. Predetermined Parameters

BDA disagreed with the premise that it is the obligation of a broker's broker to determine what is a fair price, or a range of fair prices. In its response, the MSRB reiterated that existing MSRB Rule G–18 already requires broker's brokers to ''make a reasonable effort to obtain a price for the customer that is fair and reasonable in relation to prevailing market conditions.'' The MSRB has simply proposed to move that same pricing obligation into MSRB Rule G–43(a)(i). The proposed rule does not adopt the stricter pricing obligation found in MSRB Rule G–30, which prohibits dealers from purchasing or selling municipal securities to customers as principals at prices that are not fair and reasonable. However, MSRB Rule G–30 does apply if a broker's broker engages in municipal securities transactions with customers as a principal.

In addition, BDA expressed concerns that in times of volatile markets, many bids could be outside the predetermined parameters, which would require the broker's broker to contact numerous bidders or sellers. The MSRB responded that in times of volatile markets, a broker's broker may adjust its predetermined parameters as necessary to achieve their purpose of identifying most bids that do not represent fair market value. Furthermore, broker's brokers using the safe harbor would not be required to contact bidders under any circumstances; they are simply permitted to do so under certain circumstances if they use predetermined parameters. Broker's brokers would be required, however, to contact sellers when the high bid is below the predetermined parameters. According to the MSRB, this notice would draw potentially below market bids to the attention of selling dealers and is important to facilitating the receipt of fair market prices by retail investors. The actual determination of whether the high bid is, in fact, below market, however, would remain the obligation of the selling dealer. Finally, the MSRB stated that the safe harbor is completely optional.

BDA also said that a broker's broker could set the pricing too broadly on the upper end (which could affect the outcome of the bid-wanted and future bids, thereby reducing liquidity and leading to lower prices) or too narrowly on the lower end (which could lead a selling broker not to go through with a trade, or risk litigation risk if it did). In response, the MSRB stated its belief that the requirements related to predetermined parameters should be sufficient to avoid the situations described by BDA. By definition, the predetermined parameters must be reasonably designed to identify most bids that may not represent the fair market value of municipal securities that are the subject of bid-wanteds to which they are applied. Furthermore, broker's brokers that use predetermined parameters would be required to test them periodically to determine whether they have identified most bids that did not represent the fair market value of municipal securities.

TMC believes that establishing predetermined parameters would force broker's brokers to subscribe to pricing services, as they do not have the resources to create their own pricing models for all outstanding securities. In addition, TMC believes that intermediaries, whether ATSs, broker's brokers, or exchanges, should not be responsible for setting prices or price bands, but instead should be responsible for running fair and efficient auctions. According to the MSRB, the use of predetermined parameters was suggested by a broker's broker as part of the comment process on an earlier version of MSRB Rule G–43. The MSRB noted that many broker's brokers and ATSs already notify sellers when bids differ significantly from bids received in previous bid-wanteds or offerings, recent trade prices on EMMA, or prices from pricing services. Furthermore, bidders using one ATS's software already receive an electronic notification if their bids are outside of certain pricing parameters and are required to take affirmative steps to resubmit their bids in such cases. Finally, the MSRB stated that the predetermined parameters established by broker's brokers pursuant to MSRB Rule G–43 are intended to assist broker's brokers in their duties with respect to their clients and are not dispositive of the fair market value of the securities that are the subject of bid-wanteds.

G. Prohibition on Holding Municipal Securities

AAM believes that the current definition of broker's broker, coupled with MSRB Rule G–43(c)(i)(H), would require broker-dealers that have historically participated in new issue syndicates and proprietary trading to exit those portions of their businesses. The MSRB disagreed with AAM's concern and noted that it would be highly unlikely for such firms to be considered to ''principally effect transactions for other dealers'' or to ''hold themselves out as broker's broker,'' either of which is required for a dealer to be considered a ''broker's broker'' under MSRB Rule G–43(d)(iii). The MSRB reiterated that it has proposed a separate restriction on proprietary trading by broker's brokers, rather than incorporating the concept of proprietary trading into the definition of ''broker's broker,'' because the latter approach would allow a dealer to avoid characterization as a broker's broker simply by executing a handful of proprietary trades.

H. Recordkeeping Requirements

BDA believes the record-keeping requirements are burdensome, especially those concerning offerings. According to the MSRB, the recordkeeping provisions of the proposed rule change are designed to permit effective enforcement of MSRB Rule G–43, and many were recommended by broker's brokers themselves. The MSRB noted that the proposed rule change already reflects a change from a previous version made at the request of broker's brokers concerned with the recordkeeping provisions for offerings. As the MSRB noted in its filing, ''The MSRB agrees with the comments concerning records of offers and has amended the rule to require that a broker's brokers' [sic] records concerning offers must include the time of first receipt and the time the offering has been updated for display or distribution.'' [59] A broker's broker would not need to keep records for every change in offering price throughout the course of the day.

IV. Discussion and Commission Findings

The Commission has carefully considered the proposed rule change, as modified by Amendment No. 1 thereto, as well as the comment letters received and the MSRB's response, and finds that the proposed rule change, as amended, is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to the MSRB.[60] In particular, the proposed rule change is consistent with Section 15B(b)(2)(C) of the Exchange Act, which provides that the MSRB's rules shall be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities and municipal financial products, to remove impediments to and perfect the mechanism of a free and open market in municipal securities and municipal financial products, and, in general, to protect investors, municipal entities, obligated persons, and the public interest.[61]

The Commission believes the proposed rule change is reasonably designed to prevent fraudulent and manipulative acts and practices, protect investors, and to remove impediments to and perfect the mechanism of a free and open market in municipal securities by providing more explicit direction to broker's brokers in conducting bid-wanteds and offerings and by promoting additional transparency concerning the services of and prices received from broker's brokers. A number of recent Commission and FINRA enforcement actions alleged conduct in bid-wanteds and offerings in violation of MSRB Rule G–17 and other MSRB rules.[62] According to the MSRB, enforcement agencies continue to observe transactions and trading patterns of broker's brokers that may cause customers to receive unfair prices when liquidating their municipal securities through broker's brokers.[63] The proposed rule change is designed to address these issues by providing broker's brokers with advance notice of the type of conduct that is considered unfair in the conduct of bid-wanteds and offerings, and by promoting additional transparency to dealers concerning prices received through broker's brokers.

In addition, the proposed rule change is reasonably designed to prevent fraudulent and manipulative acts and practices and to protect investors by promoting better understanding of conduct in the municipal securities market, which should in turn promote more efficient compliance with and enforcement of Rule G–43. Specifically, MSRB Rules G–8 and G–9 would require broker's brokers and ATSs to keep records of their activities in bid-wanteds. According to the MSRB, many of the recordkeeping provisions were recommended by broker's brokers. While MSRB Rule G–8 establishes different recordkeeping requirements for broker's brokers and ATSs,[64] the Commission believes the recordkeeping requirements are appropriately tailored to ensure the availability of records pertaining to the municipal securities activities of broker's brokers and ATSs. The Commission notes that, in addition to the recordkeeping requirements of MSRB Rule G–8(a)(xxvi), ATSs are also subject to the recordkeeping requirements of Regulation ATS.[65] When taken together, the recordkeeping requirements for ATSs under Regulation ATS and MSRB Rule G–8(a)(xxvi) are comparable to the applicable requirements for broker's brokers under MSRB Rule G–8(a)(xxv).

In light of the MSRB's responses to comments received, the Commission does not believe that any comment raises an issue that would preclude approval of this proposal. According to the MSRB, it has worked extensively with broker's brokers and other dealers to refine the proposed rule change so that it targets abuses more accurately, while minimizing the likelihood of adversely affecting liquidity.[66] MSRB Rule G–43 should promote improved pricing in the secondary market for retail investors in municipal securities by encouraging the wide dissemination of bid-wanteds and identifying fraudulent and unfair conduct that may result in retail investors receiving lower prices than would otherwise be available. In addition, the Proposed Notice, which would remind dealers of their pricing obligations, appears reasonably designed to provide investors with fair and reasonable prices for municipal securities.

The Commission also believes that the proposed exemption from the definition of broker's broker for certain ATSs does not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.[67] The Commission notes that an ATS will not be considered a broker's broker only if it meets the requirements of MSRB Rule G–43(d)(iii). To satisfy this exemption, the ATS must conform its conduct to certain conditions. First, the ATS must utilize only automated and electronic means to communicate with bidders and sellers in a systematic and non-discretionary

[59] *See* Notice, 77 FR at 17556.

[60] In approving the proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[61] 15 U.S.C. 78*o*-4(b)(2)(C).

[62] *See supra* note 10. *See also* Notice, 77 FR at 17549 n.4.

[63] *See* Notice, 77 FR at 17551.

[64] *Cf. infra* note 65 and accompanying text (discussing additional recordkeeping requirements imposed by Regulation ATS).

[65] *See* 17 CFR 242.300 *et seq.* For example, Rule 302 of Regulation ATS requires an ATS to make and keep time-sequenced records of order information in the ATS, including, among other things, the date and time that an order was received; the identity of the security; the principal amount of bonds to which the order applies; any designation(s) related to the order; any instructions to modify or cancel the order; the date and time that an order was executed; the price at which an order was executed; the size of the order executed; and the identity of the parties to the transaction. *See* 17 CFR 242.302(c).

[66] *See* Notice, 77 FR at 17551. The MSRB has proposed three versions of proposed MSRB Rule G–43 that would apply to broker's brokers. *See* MSRB Notice 2010–35, Request for Comment on MSRB Guidance on Broker's Brokers (Sep. 9, 2010); MSRB Notice 2011–18, Request for Comment on Draft Rule G–43 (on Broker's Brokers) and Associated Amendments to Rules G–8 (on Books and Records), G–9 (on Preservation of Records), and on G–18 (on Execution of Transactions) (Feb. 24, 2011); MSRB Notice 2011–50, Request for Comment on Revised Draft Rule G–43 (on Broker's Brokers), Associated Revised Draft Amendments to Rule G–8 (on Books and Records) and Rule G–9 (on Preservation of Records), and Draft Interpretive Notice on the Obligations of Dealers that Use the Services of Broker's Brokers (Sep. 8, 2011).

[67] 15 U.S.C. 78*o*–4(b)(2)(C).

fashion, with the exception of communications that are solely clerical or ministerial in nature and communications that occur after a trade has been executed. Second, all customers of the ATS, if any, must be SMMPs. Third, the ATS must adopt and comply with specified policies and procedures[68] that would, among other things, require that the ATS disclose the nature of its undertaking for the seller and bidders in bid-wanteds and offerings and the manner in which it will conduct bid-wanteds and offerings,[69] as well as prohibit the ATS from giving preferential information to bidders in bid-wanteds, including but not limited to ''last looks'' (*e.g.,* directions to a bidder that it ''review'' its bid or that its bid is ''sticking out'').[70] These policies and procedures are substantially similar to those applicable to broker's brokers. To the extent an ATS fails to meet any of the requirements of the exemption under MSRB Rule G–43(d)(iii), the ATS will be considered a broker's broker and thus subject to all of the requirements of MSRB Rule G–43. The Commission agrees with the MSRB that ATSs subject to the exemption from the definition of broker's broker will remain subject to most of the requirements of MSRB Rule G–43(c).[71] For these reasons, the Commission believes that the proposed exemption from the definition of broker's broker for certain ATSs does not impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Exchange Act.[72]

V. Conclusion

For the foregoing reasons, the Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Exchange Act and the rules and regulations thereunder applicable to the MSRB, and in particular, Section 15B(b)(2)(C)[73] of the Exchange Act. The proposal will become effective six months after the date of this order.

It is therefore ordered, pursuant to Section 19(b)(2) of the Exchange Act,[74] that the proposed rule change (SR–MSRB–2012–04), as modified by Amendment No. 1, is approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[75]

Kevin M. O'Neill,

Deputy Secretary.

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[68] *See supra* note 12 and accompanying text.

[69] *See* MSRB Rule G–43(d)(iii)(C)(1)–(2). The Commission notes that a broker's broker also must disclose the nature of its undertaking for the seller and bidders in bid-wanteds and offerings and the manner in which it will conduct bid-wanteds and offerings, and describe in detail how such broker's broker will satisfy its obligations under the rule if it chooses not to conduct bid-wanteds in accordance with MSRB Rule G–43(b). *See* MSRB Rule G–43(c)(i)(A)–(B) and (G). The Commission believes broker's brokers and ATSs should provide clear and transparent disclosure sufficient to understand their conduct of bid-wanteds and offerings.

[70] *See* MSRB Rule G–43(d)(iii)(C)(3); MSRB Rule G–43(c)(i)(K).

[71] *See* Notice, 77 FR at 17550. *See also supra* note 65 and accompanying text (discussing the combined recordkeeping obligations of ATSs in MSRB Rule G–8 and Regulation ATS).

[72] 15 U.S.C. 78*o*–4(b)(2)(C).

[73] 15 U.S.C. 78*o*–4(b)(2)(C).

[74] 15 U.S.C. 78s(b)(2).

[75] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67242; File No. SR–FINRA–2012–023]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Order Granting Approval of a Proposed Rule Change Relating to FINRA's Trading Activity Fee Rate for Transactions in Covered Equity Securities

June 22, 2012.

I. Introduction

On May 2, 2012, the Financial Industry Regulatory Authority, Inc. (''FINRA'') filed with the Securities and Exchange Commission (''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Act'')[1] and Rule 19b–4 thereunder,[2] a proposed rule change relating to FINRA's Trading Activity Fee (''TAF'') rate for transactions in covered equity securities. The proposed rule change was published for comment in the **Federal Register** on May 10, 2012.[3] The Commission received four comments on the proposal.[4] On June 19, FINRA responded to the comments.[5] This order approves the proposed rule change.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 66924 (May 4, 2012), 77 FR 27527.

[4] *See* Letters to the Commission from Leonard J. Amoruso, General Counsel, Knight Capital Group, Inc., dated June 4, 2012 (''Knight Letter''); Kimberly Unger, Executive Director, The Security Traders Association of New York, Inc., dated June 11, 2012 (''STANY Letter''); Daniel Keegan, Managing Director, Citigroup Global Markets Inc., dated June 13, 2012 (''Citi Letter''); and John C. Nagel, Managing Director and General Counsel, Citadel Securities, dated June 13, 2012 (''Citadel Letter'').

[5] *See* Letter to the Commission from Brant K. Brown, Associate General Counsel, The Financial Industry Regulatory Authority, Inc., dated June 19, 2012 (''FINRA Response Letter'').

II. Description of the Proposal

FINRA's proposal would amend Section 1 of Schedule A to the FINRA By-Laws to adjust the rate of FINRA's TAF for transactions in Covered Securities that are equity securities.[6] The TAF, along with the Personnel Assessment and the Gross Income Assessment fees, is used to fund FINRA's regulatory activities.[7]

The current TAF rate is $0.000095 per share for each sale of a Covered Security that is an equity security, with a maximum charge of $4.75 per trade. This rate, which was implemented by FINRA on March 1, 2012, represented a $0.000005 per share increase over the previously effective rate of $0.000090 per share, while the per-transaction cap for Covered Securities that are equity securities increased by $0.25, from $4.50 to $4.75.[8]

Under the current proposal, FINRA would increase the TAF rate by an additional $0.000024 per share, from $0.000095 per share to $0.000119 per share, while the per-transaction cap for transactions in Covered Securities that are equity securities would increase by $1.20, from $4.75 to $5.95. FINRA intends to make the proposal effective on July 1, 2012.

Additionally, FINRA seeks approval to submit future filings related to the TAF rate under Section 19(b)(3)(A) of the Act[9] and Rule 19b–4(f)(2) thereunder,[10] rather than under Section 19(b)(2) of the Act.[11] When the TAF was first proposed in 2002 to replace the former NASD Regulatory Fee, several commenters at the time expressed concern that the TAF rate could be raised at any time without notice and comment and Commission approval.[12] The Commission approved the TAF in part based on representations by NASD that all future changes to the TAF would

[6] Covered Securities are defined in Section 1 of Schedule A to the FINRA By-Laws as: exchange-registered securities wherever executed (except debt securities that are not TRACE-Eligible Securities); OTC Equity Securities; security futures; TRACE-Eligible Securities (provided that the transaction is a Reportable TRACE Transaction); and all municipal securities subject to Municipal Securities Rulemaking Board reporting requirements. The rules governing the TAF also include a list of exempt transactions. *See* FINRA By-Laws, Schedule A, § 1(b)(2).

[7] *See* FINRA By-Laws, Schedule A, § 1(a).

[8] *See* Securities Exchange Act Release No. 66287 (February 1, 2012), 77 FR 6161 (February 7, 2012); Securities Exchange Act Release No. 66276 (January 30, 2012), 77 FR 5613 (February 3, 2012).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(2).

[11] 15 U.S.C. 78s(b)(2).

[12] *See* Securities Exchange Act Release No. 47946 (May 30, 2003), 68 FR 34021 (June 6, 2003).

be filed under Section 19(b)(2) of the Act and thus subject to approval by the Commission.[13]

III. Summary of Comments and FINRA's Response to Comments

a. Summary of Comments

The Commission received four comments on the proposal, all of which objected to both the proposed increase in the TAF and FINRA's intention to file future TAF adjustments under Section 19(b)(3)(A) of the Act.

The commenters shared concern that the proposed increase to the TAF would disproportionately harm FINRA members that provide liquidity in covered equity securities.[14] One of these commenters observed that the proposed new TAF rate would represent a 138% increase over the rate that was first implemented in 2002.[15] This commenter argued that, because the fee is based on share transaction volume, liquidity providers are assessed the greatest amount of fees.[16] Furthermore, this commenter expressed concern that the proposal would result in an inequitable allocation of fees among FINRA members and therefore run afoul of Section 15A(b)(5) of the Act.[17] Specifically, the commenter contended that, because 95% of the TAF is generated by transactions in equity securities, the net result of the TAF is that liquidity providers that deal in covered equity securities end up funding aspects of FINRA's regulatory that do not apply to them.[18]

The commenters also questioned the structure of FINRA's funding. One commenter noted that the revenues FINRA derives from the TAF are subject to the volatility of trading in the equity markets; as a result, according to this commenter, adequate funding for FINRA's regulatory program is dependent on FINRA's transaction volume projections.[19] Additionally, this commenter believed increasing the TAF at a time when transaction volume decreases places an especially difficult burden on trading firms, which operate on thin margins and are themselves dependent on volume.[20] Thus, the commenter suggested that FINRA consider alternatives to the TAF that would be more stable and equitably apportioned among FINRA members.[21] Another commenter also suggested that FINRA consider a funding scheme for its regulatory programs that more fairly allocates the financial burden of regulation across asset classes and regulated members.[22]

Finally, the commenters objected to FINRA's proposal to file future adjustments to the TAF under Section 19(b)(3)(A) of the Act, as opposed to Section 19(b)(2). According to the commenters, allowing FINRA to do so would limit or eliminate the opportunity for public comment on such future adjustments.[23] One commenter stated that those most affected by adjustments to the TAF rely on the opportunity for public comment as an appropriate check on FINRA's rate-setting.[24] Another commenter contended that transparency is necessary in this context because FINRA has no competitors and the TAF is not subject to competitive forces.[25] Thus, both commenters expressed their belief that a reasonable period for notice and comment is important to allow FINRA members the chance for meaningful input.[26]

b. FINRA's Response to Comments

FINRA responded that the proposed adjustment to the TAF is necessary, reasonable, and equitably allocated among its members, and by explaining its rationale for the TAF structure.

With respect to the commenters' concerns about the TAF's disproportionate impact on covered equity security liquidity providers, FINRA noted that there are three critical factors that it uses to measure regulatory costs for a member firm: the overall size of the firm, the level of a firm's trading activity, and the firm's number of registered representatives. FINRA stated that it has sought to measure these factors and assess fees accordingly by implementing regulatory fees that line up with each factor: the Gross Income Assessment Fee, the TAF, and Personnel Assessment Fee, respectively. According to FINRA, trading in the equity markets drives a significant portion of its regulatory costs, and therefore it is equitable to recover some of those costs from fees generated from equity trading activity.[27] FINRA also noted that the TAF rate for other types of securities, like TRACE-reportable debt securities, is similarly calibrated to be equitably allocated in a way that corresponds to the costs of FINRA's regulatory efforts.[28]

Second, with respect to the structure of FINRA's funding, FINRA noted that the TAF is one of three types of assessments—the other two are the Gross Income Assessment and the Personnel Assessment. According to FINRA, the Gross Income Assessment, which is not dependent on market activity, is the most important component of FINRA's regulatory funding, and in 2011 the TAF represented only 33% of FINRA's total member regulatory fees and assessments.[29]

FINRA stated that it strives to operate on a cash-flow-neutral basis [30] and routinely reexamines its fee structure to consider alternative means to reasonably and equitably allocate fees in a method that is efficient, sustainable, and predictable.[31] FINRA stated that in 2009, for example, it increased the Personnel Assessment fee and revised its calculation of the Gross Income Assessment to achieve a more consistent and predictable funding scheme, while also engaging in cost-control measures.[32] According to FINRA, the currently proposed adjustment—an increase to the TAF—is necessary in light of current market conditions so that FINRA can properly fund its regulatory mission.[33] FINRA represents, however, that if market volume were to increase, it would decrease the TAF rate accordingly.[34]

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[13] *See id.* at 34024.

[14] *See* Knight Letter at 2–3; STANY Letter at 2 (expressing particular concern about FINRA members that make markets in OTC equities securities); Citi and Citadel Letters (joining the Knight and STANY Letters).

[15] *See* Knight Letter at 2.

[16] *See id.*

[17] 15 U.S.C. 78o–3(b)(5).

[18] *See* Knight Letter at 2–3. *See also* STANY Letter at 2 (expressing a similar concern); Citi and Citadel Letters (joining the Knight and STANY Letters).

[19] *See* Knight Letter at 2.

[20] *See id. See also* STANY Letter at 2 (stating that ''[a]t a time when trading desks are seeing a marked decline in revenue due to the decline in volume, we are concerned that an increase in there [sic] per share fees may cause some firms to go out of business and will serve as a further disincentive to other firms to continue making markets or providing liquidity in the markets for OTC equity securities'').

[21] *See* Knight Letter at 3.

[22] *See* STANY Letter at 2.

[23] *See* Knight Letter at 3–4; STANY Letter at 2.

[24] *See* Knight Letter at 3–4.

[25] *See* STANY Letter at 2.

[26] *See also* Citi and Citadel Letters (joining the Knight and STANY Letters).

[27] *See* FINRA Response Letter at 4. FINRA also stated that it is cognizant of the fact that its member firms may be experiencing lower revenues themselves as a result of the decrease in volume, but its statutory obligations continue to exist in difficult financial and market environments and it needs adequate resources to effectively carry out its responsibilities. *See id.* at 3.

[28] FINRA noted that when the TAF was expanded to TRACE-reportable debt securities, it set the rate so that the portion of TAF revenue received on debt transactions reflected FINRA's regulatory efforts in the fixed income market. *See id.* at 4–5.

[29] *See id.* at 2–3.

[30] *See id.* at 3.

[31] *See id.* at 6.

[32] *See id.*

[33] *See id.* at 3.

[34] *See id.* at 3, 7–8.

Finally, with respect to filing future amendments to the TAF under Section 19(b)(3)(A), FINRA stated that Section 19(b)(3)(A) and Rule 19b–4(f)(2) thereunder specifically contemplate such types of fee filings. Furthermore, FINRA noted that filing adjustments to the TAF under Section 19(b)(3)(A) would allow it to adjust rates in response to market volatility—both up and down—more efficiently, and would not run afoul of the rulemaking system's set of checks and balances established in the Act and the SEC's rules thereunder.

IV. Discussion and Commission's Findings

After carefully considering the proposed rule change, the comments submitted, and FINRA's response to the comments, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities association.[35] In particular, the Commission finds that the proposal is consistent with Section 15A(b)(5) of the Act,[36] which requires, among other things, that FINRA rules provide for the equitable allocation of reasonable dues, fees, and other charges among members and issuers and other persons using any facility or system that FINRA operates or controls. The Commission believes that the proposal is reasonably designed to secure adequate funding to support FINRA's regulatory duties.

FINRA has represented that its proposed increases to the TAF rate and per-transaction cap are necessary to adequately fund FINRA's member regulatory obligations, and that the proposed increase to the TAF, like prior adjustments, seeks to remain revenue neutral to FINRA. Although commenters argue that the proposal would disproportionately harm firms that provide liquidity in covered equity securities and that the TAF is subject to volatility in the equity markets, the Commission agrees with FINRA that adjusting the TAF rate and the per-transaction cap as proposed is warranted. FINRA represented that trading in equity markets drives a significant portion of its regulatory costs, and therefore it is equitable to recover some of those costs from fees generated from equity trading activity. Moreover, as the Commission stated in 2009,

> Adequate regulatory funding is critical to FINRA's ability to meet [its] statutory requirements. While some member firms understandably question whether it is reasonable for FINRA to increase regulatory fees at a time when the securities industry has faced declining revenues as a result of the economic downturn, it is incumbent on FINRA to continue to support a robust regulatory program irrespective of market events.[37]

Furthermore, the Commission notes that the TAF constitutes only a portion of the fees that FINRA charges members to support its regulatory function. FINRA also charges a Gross Income Assessment Fee and a Personnel Assessment Fee, which are not directly correlated to equity trading volumes.

Finally, the Commission finds that FINRA may, consistent with the Act, submit future filings to adjust the TAF rate and the per-transaction fee cap for immediate effectiveness under Section 19(b)(3)(A) of the Act. Section 19(b)(3)(A)(ii) allows an SRO to file an immediately effective proposed rule change if such filing is designated as ''establishing or changing a due, fee, or other charge imposed by the self-regulatory organization.'' [38] Proposed adjustments to the TAF rate and per-transaction fee cap clearly fall within the scope of this provision.

The Commission notes that commenter concerns regarding the opportunity to comment on proposed TAF adjustments are mitigated by the fact that such filings would still be subject to comment and Commission review even when filed under Section 19(b)(3)(A). The Commission summarily may temporarily suspend such a proposed rule change within 60 days of filing ''if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of [the Act].'' [39]

For the reasons stated above, the Commission finds that the proposed rule change is consistent with the Act and the rules and regulations thereunder.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[40] that the proposed rule change (SR–FINRA–2012–023) be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[41]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–15806 Filed 6–27–12; 8:45 am]

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[35] In approving the proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[36] 15 U.S.C. 78o–3(b)(5).

[37] Securities Exchange Act Release No. 61042 (November 20, 2009), 74 FR 62616, 62818 (November 30, 2009).

[38] 15 U.S.C. 78s(b)(3)(A)(ii).

[39] 15 U.S.C. 78s(b)(3)(C).

[40] 15 U.S.C. 78s(b)(2).

[41] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67239; File No. SR–FINRA–2012–028]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adjust Fees for Review of Advertising Material Filed With FINRA

June 22, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 8, 2012, the Financial Industry Regulatory Authority, Inc. (''FINRA'') (f/k/a National Association of Securities Dealers, Inc. (''NASD'')) filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as ''establishing or changing a due, fee or other charge'' under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

FINRA is proposing to amend Section 13 of Schedule A to the FINRA By-Laws (''Section 13'') governing the review charges for advertisements, sales literature, and other such material filed with or submitted to FINRA's Advertising Regulation Department (the ''Department'').

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org*, at the principal office of FINRA and at the Commission's Public Reference Room.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Department evaluates member firms' advertisements, sales literature and other communications for compliance with applicable rules of FINRA, the SEC, the Municipal Securities Rulemaking Board and the Securities Investors Protection Corporation. These public communications include print, television and radio advertisements, and electronic communications, including Web sites and social media. They also include brochures, form letters, mailers and telemarketing scripts. Pursuant to NASD Rule 2210 and Interpretations issued thereunder, the Department helps to ensure that all FINRA member firms' communications are based on principles of fair dealing and good faith, are fair and balanced, and provide a sound basis for evaluating the facts in regard to any particular security or type of security, industry or service.[5] Among other things, FINRA rules prohibit member communications from including false, exaggerated, unwarranted, or misleading statements or claims.

The purpose of the proposed rule change is to amend Section 13 to raise the fee that may be charged by the Department for reviewing each and every item of advertisement, sales literature, and other such material, whether in printed, video or other form, filed with or submitted to FINRA (except for items that are filed or submitted in response to a written request from the Department issued pursuant to the spot check procedures set forth in FINRA rules).

Despite rising costs to administer the filings program, FINRA has not adjusted since 2005 the fees charged in connection with the review of advertisements, sales literature, and other such material. The volume of filings has increased substantially over that period. From 2004 to 2011, for example, the number of regular filings increased 19 percent from 77,983 to 92,879 and the number of expedited filings rose 29 percent from 5,474 to 7,047. In 2011, firms submitted 95 percent of filings electronically. Since 2004, FINRA has upgraded its technology and hired additional staff to maintain the program's effectiveness and ensure reasonable turnaround times, particularly given firms' increased use of technology to submit filings. FINRA anticipates a continued increase in the volume of filings in future years. Based on these operational demands, FINRA proposes to raise the fee charged for the review of printed material and video or audio media from $100 to $125. The surcharge for lengthy materials would remain unchanged. FINRA further proposes to increase the fee for expedited review from $500 to $600 per item, and the fee for pages in excess of 10 to $50 per page from $25.

FINRA has filed the proposed rule change for immediate effectiveness. FINRA is proposing that the implementation date of the proposed rule change will be July 2, 2012.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5) of the Act,[6] which requires, among other things, that FINRA rules provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system that FINRA operates or controls. FINRA believes that the rule change is consistent with Section 15A(b)(5) of the Act in that the proposed review fee is reasonable based on the Department's increasing operational costs. The proposed review fee also contributes to the general funding of FINRA's overall regulatory program and serves to ensure that FINRA is sufficiently capitalized to meet its regulatory responsibilities. Moreover, the proposed fee is equitably allocated among all members that file or submit advertisements, sales literature, and other such material, whether in printed, video or other form.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[7] and paragraph (f)(2) of Rule 19b–4 thereunder.[8] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.] [sic]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2012–028 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2012–028. This file number should be included on the subject line if email is used.

To help the Commission process and review your comments more efficiently,

[5] We note that the Commission recently approved new consolidated FINRA communications with the public rules, including new FINRA Rule 2210, which maintains these principles. *See* Securities Exchange Act Release No. 66681 (March 29, 2012), 77 FR 20452 (April 4, 2012) (Order Approving File No. SR–FINRA–2011–035). FINRA will announce the effective date of the new rules in a *Regulatory Notice* to be published not later than June 27, 2012.

[6] 15 U.S.C. 78*o*–3(b)(5).

[7] 15 U.S.C. 78s(b)(3)(A).

[8] 17 CFR 240.19b–4(f)(2).

please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2012–028, and should be submitted on or before July 19, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[9]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–15851 Filed 6–27–12; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67240; File No. SR–FINRA–2012–031]

Self-Regulatory Organizations; Financial Industry Regulatory Authority, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Amend Section 4 of Schedule A to the FINRA By-Laws To Increase the Branch Office Annual Registration and New Member Application Fees and Assess a New Continuing Membership Application Fee

June 22, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 13, 2012, the Financial Industry Regulatory Authority, Inc. (''FINRA'') (f/k/a National Association of Securities Dealers, Inc. (''NASD'')) filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as ''establishing or changing a due, fee or other charge'' under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

FINRA is proposing to amend Section 4 of Schedule A to the FINRA By-Laws to (1) increase the branch office annual registration fee; (2) increase the new member application fee; and (3) assess a new fee for continuing membership applications. The proposed rule change also makes corresponding amendments to NASD Rules 1012, 1013, and 1017 regarding the revised new member application fee and new continuing membership application fee, as well as increases from $350 to $500 the processing fee for new member applications that are deemed not to be substantially complete and imposes a $500 processing fee for continuing membership applications that are deemed not to be substantially complete.

The text of the proposed rule change is available on FINRA's Web site at *http://www.finra.org,* at the principal office of FINRA and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

As discussed in further detail below, the proposed rule change amends Section 4 of Schedule A to the FINRA By-Laws to (1) increase the branch office annual registration fee; (2) increase the new member application fee; and (3) assess a new fee for continuing membership applications. The proposed rule change also makes corresponding amendments to NASD Rules 1012 (General Provisions), 1013 (New Member Application and Interview), and 1017 (Application for Approval of Change in Ownership, Control, or Business Operations) regarding the revised new member application fee and new continuing membership application fee, as well as increases from $350 to $500 the processing fee for new member applications that are deemed not to be substantially complete and imposes a $500 processing fee for continuing membership applications that are deemed not to be substantially complete.

Branch Office Fees

Schedule A, Section 4(a) currently sets forth an initial registration fee of $75 (and a branch office system processing fee of $20) upon the registration of each branch office as defined in the FINRA By-Laws.[5] Section

[9] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] Article I, paragraph (d) of the FINRA By-Laws defines ''branch office'' as an office defined as a branch office in FINRA's rules. NASD Rule 3010(g)(2)(A) states that a ''branch office'' is any location where one or more associated persons of a member regularly conducts the business of effecting any transactions in, or inducing or attempting to induce the purchase or sale of any security, or is held out as such, excluding: (i) Any location that is established solely for customer service and/or back office type functions where no sales activities are conducted and that is not held out to the public as a branch office; (ii) any location that is the associated person's primary residence, provided that certain enumerated conditions are met; (iii) any location, other than a primary residence, that is used for securities business for less than 30 business days in any one calendar year, provided the member complies with certain enumerated conditions; (iv) any office of convenience, where associated persons occasionally and exclusively by appointment meet with customers, which is not held out to the public as an office; (v) any location that is used primarily to engage in non-securities activities and from which the associated person(s) effects no more than 25 securities transactions in any one calendar year; provided that any advertisement or sales literature identifying such location also sets forth the address and telephone number of the location from which the associated person(s) conducting business at the non-branch locations are directly supervised; (vi) the floor of a registered national securities exchange where a member conducts a direct access business with public customers; or (vii) a temporary location established in response to the implementation of a

4 also assesses (1) an annual registration fee in an amount equal to the lesser of (i) $75 per registered branch, or (ii) the product of $75 and the number of registered representatives and registered principals associated with the member at the end of FINRA's fiscal year, and (2) an annual branch office system processing fee of $20 per registered branch. Pursuant to Section 4, FINRA waives, for one branch office per member per year, payment of the annual branch office registration fee (for those FINRA members who have been assessed the $75 amount as their annual fee) and the $20 annual branch office system processing fee (for all FINRA members).

Despite rising costs to administer the branch office registration and examination program, FINRA has not adjusted the branch office annual registration fee since 1994.[6] In support of its branch office registration and examination program and other regulatory responsibilities, FINRA is proposing to revise the branch office annual registration fee structure by implementing a tiered regressive rate structure that will assess a per branch office annual registration fee ranging from $75 to $175 depending on the number of branch offices of the member.

Specifically, the proposed rule change would amend the annual registration fee requirement in Section 4(a) to provide that each member shall be assessed an annual registration fee of: (1) $175, for the first 250 branch offices registered by the member; (2) $150, for branch offices 251 to 500 registered by the member; (3) $125, for branch offices 501 to 1,000 registered by the member; (4) $100, for branch offices 1,001 to 2,000 registered by the member; and (5) $75, for every branch office greater than 2,000 registered by the member. The proposed rule change would retain the $20 annual branch office system processing fee per registered branch. Consistent with current practice, FINRA would assess each member's annual registration fee based on the member's total number of branch offices registered at the end of each calendar year.

Additionally, the proposed rule change would continue to waive, for one branch office per member per year, payment of the annual registration fee (and the $20 annual branch office system processing fee), but increase the amount of the waiver from $75 to $175. The proposed rule change also would amend Schedule A, Section 4(a) to codify FINRA's current practice of waiving payment of the $75 initial registration fee (and $20 branch office system processing fee) for the first branch office registered by a member.

New Member Application Fee

Schedule A, Section 4(e) to the FINRA By-Laws currently requires new member applicants to pay an application fee of either $5,000 or $3,000, based generally on the net capital requirements for the type of business in which the applicant proposes to engage.

The new membership application fee has remained unchanged since 1994,[7] notwithstanding the increase in complexity of such filings and the related resource demands. FINRA is proposing to revise the new member application fee structure to implement a fee structure that would assess fees ranging from $7,500 to $55,000 depending on the size of the new member applicant. The revised fee structure also would assess an additional $5,000 surcharge for a new member applicant that intends to engage in any clearing and carrying activities. FINRA believes that assessing new member application fees based on the applicant's size and whether the applicant intends to engage in clearing and carrying activities will more closely reflect the resource demands associated with processing and reviewing applicants.

Specifically, the proposed rule change would amend Section 4(e) of Schedule A to require that each applicant for membership shall be assessed an application fee based on the size of the applicant at the time the application is filed, as outlined in the tables below.

Number of registered persons associated with applicant	Small	Medium	Large
Tier 1	1–10	151–300	501–1,000
Tier 2	11–100	301–500	1,001–5,000
Tier 3	101–150	N/A	>5,000

Application fee per tier	Small	Medium	Large
Tier 1	$7,500	$25,000	$35,000
Tier 2	12,500	30,000	45,000
Tier 3	20,000	N/A	55,000

As noted above, the proposed rule change also would amend Section 4(e) to require that each applicant for membership also pay $5,000 if the applicant will be engaging in any clearing and carrying activity.

Additionally, the proposed rule change would make conforming amendments to NASD Rules 1012 and 1013. Specifically, the proposed rule change would amend the requirement in NASD Rule 1012(a) (Filing by Applicant

business continuity plan. NASD Rule 3010(g)(2)(B) further provides that notwithstanding the exclusions in NASD Rule 3010(g)(2)(A), any location that is responsible for supervising the activities of persons associated with the member at one or more non-branch locations of the member is considered to be a branch office.

[6] *See* Securities Exchange Act Release No. 35074 (December 9, 1994), 59 FR 64827 (December 15, 1994) (Notice of Filing and Immediate Effectiveness of File No. SR–NASD–94–58) (increasing the branch office registration and annual fees from $50 to $75 to reflect increased costs for registration and regulatory oversight of branch offices). In 2006, Schedule A, Section 4(a) was amended to establish an annual branch office system processing fee to reflect the costs of developing and implementing the Form BR, as well as costs associated with the ongoing branch office system maintenance and enhancements. *See* Securities Exchange Act Release No. 53955 (June 7, 2006), 71 FR 34658 (June 15, 2006) (Notice of Filing and Immediate Effectiveness of File No. SR–NASD–2006–065).

[7] *See* Securities Exchange Act Release No. 33533 (January 27, 1994), 59 FR 5218 (February 3, 1994) (Notice of Filing and Immediate Effectiveness of File No. SR–NASD–94–05) (increasing from $1,500 to $3,000 the new member application fee for certain applicants).

or Service by FINRA) that an applicant for membership shall file an application in the manner prescribed in NASD Rule 1013 to require that the applicant include the timely submission of an application fee pursuant to Schedule A to the FINRA By-Laws and delete as unnecessary the requirement in NASD Rule 1013(a)(1) (How to File) that an applicant include the payment of the appropriate fee as part of its new member application. The proposed rule change also would amend NASD Rule 1012(b) (Lapse of Applicant) to require that if a new member application lapses, an applicant that wishes to continue to seek membership must submit a new application in the manner prescribed in NASD Rule 1013, including the timely submission of an application fee pursuant to Schedule A to the FINRA By-Laws.

Further, FINRA is proposing to amend NASD Rule 1013(a)(3) (Rejection Of Application That Is Not Substantially Complete) to increase from $350 to $500 the processing fee retained by FINRA if the Department of Member Regulation (''Department'') determines that a new member application is not substantially complete. The proposed rule change also would amend NASD Rule 1013(a)(3) to require that, if an applicant submits another new member application, the applicant must submit the appropriate fee pursuant to Schedule A to the FINRA By-Laws.

Continuing Membership Application Fee

NASD Rule 1017 provides parameters for certain changes in a member's ownership, control, or business operations that would require a continuing membership application. Among other things, those changes include a merger of a member with another member, a direct or indirect acquisition by a member of another member, a change in equity ownership or partnership capital of a member that results in one person or entity directly or indirectly owning or controlling 25 percent or more of the equity or partnership capital, or a material change in business operations as defined in NASD Rule 1011(k) (''material change in business operations''). NASD Rule 1011(k) defines a ''material change in business operations'' as including, but not limited to: (1) Removing or modifying a membership agreement restriction; (2) market making, underwriting, or acting as a dealer for the first time; and (3) adding business activities that require a higher minimum net capital under SEA Rule 15c3–1.

Although FINRA does not currently assess a fee for submitting a continuing membership application, the membership program incurs substantial costs in reviewing the application materials and assessing whether the application meets the required standards. Based on these operational demands, FINRA is proposing to amend Schedule A to the FINRA By-Laws to require that an applicant submitting a continuing membership application fee pay an application fee based on the number of registered persons associated with the applicant and the type of change in ownership, control, or business operations being contemplated. Because the effort required to review a continuing membership application generally depends on the facts and circumstances, with more complex changes and larger applicants requiring additional resources, FINRA believes that the proposed matrix will be an effective means of assessing related fees. For instance, the proposed fee structure would assess a member with only one to ten registered persons a fee ranging between $5,000 and $7,500, depending on the type of continuing membership application, whereas a member with 301 to 500 registered persons would be assessed a fee ranging between $10,000 and $30,000 depending on the type of continuing membership application.

Specifically, the proposed rule change would amend Section 4 of Schedule A to require that, in addition to any dues or fees otherwise payable, each applicant submitting an application for approval of a change in ownership, control, or business operations shall be assessed an application fee, based on the number of registered persons associated with the applicant (including registered persons proposed to be associated with the applicant upon approval of the application) at the time the application is filed and the type of change in ownership, control, or business operations, as outlined in the tables below:

Number of registered persons associated with applicant	Small	Medium	Large
Tier 1	1–10	151–300	501–1,000
Tier 2	11–100	301–500	1,001–5,000
Tier 3	101–150	N/A	>5,000

Application fee per tier and application type	Small	Medium	Large
Merger:			
Tier 1	$7,500	$25,000	$50,000
Tier 2	12,500	30,000	75,000
Tier 3	20,000	N/A	100,000
Material Change:			
Tier 1	5,000	20,000	35,000
Tier 2	10,000	25,000	50,000
Tier 3	15,000	N/A	75,000
Ownership Change	5,000	10,000	15,000
Transfer of Assets	5,000	10,000	15,000
Acquisition	5,000	10,000	15,000

The proposed rule change also would clarify that if an applicant's request for approval of a change in ownership, control, or business operations involves more than one type of application identified in the ''application fee per tier and application type'' table above, the application fee shall be the highest amount of the applicable ''application type'' fees (*e.g.,* the application fee for an applicant associated with 1–10 registered persons filing an application

involving a merger and material change would be $7,500).

Additionally, the proposed rule change would make conforming changes to NASD Rule 1012. Specifically, the proposed change would amend NASD Rule 1012(a) (Filing by Applicant or Service by FINRA) to require that applicant seeking approval of a change in ownership, control, or business operations pursuant to NASD Rule 1017 must include the timely submission of an application fee pursuant to Schedule A to the FINRA By-Laws. The proposed rule change also would amend NASD Rule 1012(b) (Lapse of Application) to require that, if a continuing membership application lapses, an applicant that wishes to continue to seek membership or approval of a change in ownership, control, or business operations must submit a new application in the manner prescribed in NASD Rule 1017, including the timely submission of an application fee pursuant to Schedule A to the FINRA By-Laws.

Finally, FINRA is proposing to amend NASD Rule 1017(d) (Rejection Of Application That Is Not Substantially Complete) to provide that, if the Department determines that a continuing membership application is not substantially complete, the Department shall, among other things, refund the application fee, less $500, which shall be retained by FINRA as a processing fee. The proposed rule change also would amend NASD Rule 1013(a)(3) to require that, if an applicant submits another continuing membership application, the applicant must submit the appropriate fee pursuant to Schedule A to the FINRA By-Laws.

Implementation

FINRA has filed the proposed rule change for immediate effectiveness. FINRA is proposing that the implementation date for the fees assessed in Schedule A to the FINRA By-Laws, Section 4(e) (the new member application fee) and new Section 4(i) (the continuing membership application fee), and the corresponding amendments to NASD Rules 1012, 1013, and 1017, will be July 23, 2012. FINRA will announce the implementation date for the fees assessed in Schedule A to the FINRA By-Laws, Section 4(a) (branch office annual registration fee (and related waiver)), which will be on or after January 1, 2013, in a *Regulatory Notice* or similar communication.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5) of the Act,[8] which requires, among other things, that FINRA rules provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system that FINRA operates or controls. FINRA believes that the proposed fees are reasonable based on the nature and scope of the Membership Department's examination program and application review processes and the related costs of maintaining the program. The proposed fees also contribute to the general funding of FINRA's overall regulatory program and serve to ensure that FINRA is sufficiently capitalized to meet its regulatory responsibilities. FINRA also believes that the proposed fees are equitably allocated among members and applicants for membership as they are assessed based on the size of the member or applicant, and in the case of the continuing membership application fee, also on the type of continuing membership application being filed.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A) of the Act[9] and paragraph (f)(2) of Rule 19b–4 thereunder.[10] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved. [sic]

[8] 15 U.S.C. 78*o*–3(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A).

[10] 17 CFR 240.19b–4(f)(2).

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–FINRA–2012–031 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2012–031. This file number should be included on the subject line if email is used.

To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2012–031, and should be submitted on or before July 19, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–15852 Filed 6–27–12; 8:45 am]

BILLING CODE 8011–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67241; File No. SR–FINRA–2012–029]

Self-Regulatory Organizations; Financial Industry Regulatory Authority Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Adjust Fees for Filing Documents Pursuant to FINRA Rule 5110

June 22, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on June 8, 2012, Financial Industry Regulatory Authority (''FINRA'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change described in Items I, II and III below, which Items have been prepared by FINRA. FINRA has designated the proposed rule change as ''establishing or changing a due, fee or other charge'' under Section 19(b)(3)(A)(ii) of the Act [3] and Rule 19b–4(f)(2) thereunder,[4] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of the Substance of the Proposed Rule Change

FINRA is proposing to amend Section 7 of Schedule A to the FINRA By-Laws to adjust fees for filing documents pursuant to FINRA Rule 5110 (Corporate Financing Rule—Underwriting Terms and Arrangements). The text of the proposed rule change is available at *http://www.finra.org,* at the principal office of FINRA, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, FINRA included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. FINRA has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to amend Section 7 of Schedule A to the FINRA By-Laws (''Section 7'') to (1) increase the rate from .01 percent to .015 percent for the fee for the filing of initial documents and amendments pursuant to the Corporate Financing Rule; (2) increase the maximum fee from $75,500 to $225,500 for such filings; and (3) increase the fee from $75,500 to $225,500 for an offering of securities on an automatically effective Form S–3 or F–3 registration statement filed with the SEC and offered pursuant to Securities Act Rule 415 by a Well-Known Seasoned Issuer as defined in Securities Act Rule 405.

FINRA's Corporate Financing Department (the ''Department'') is responsible for reviewing the proposed underwriting terms and arrangements of proposed public offerings of securities for compliance with the requirements of FINRA Rule 5110. The public offerings reviewed by the Department include initial and secondary offerings of unseasoned issuers, best efforts offerings of direct participation programs (''DPPs'') and real estate investment trusts (''REITs''), but generally exclude public offerings of seasoned issuers that are not broker-dealers or their affiliates and offerings of investment grade securities.

The Department's review is complementary to the SEC's registration process, which defers to FINRA to establish reasonable levels of underwriting compensation and adequate disclosure of the underwriting terms and conflicts. Pursuant to FINRA Rule 5110, no member or person associated with a member may participate in a public offering subject to the Rule, or to FINRA Rules 5121 (Public Offerings of Securities With Conflicts of Interest) and 2310 (Direct Participation Programs), unless the documents and information specified in the Rule have been filed with and reviewed by the Department. Typically, the book-running manager for the offering files the documents on behalf of the participating members. The fee charged to members for this review is set forth in Section 7.

Under Section 7(a), the current fee for filings of initial documents relating to any offering pursuant to FINRA Rule 5110 is equal to (i) $500 plus .01 percent of the proposed maximum aggregate offering price or other applicable value of all securities registered on an SEC registration statement or included on any other type of offering document (where not filed with the SEC), but shall not exceed $75,500; or (2) $75,500 for an offering of securities on an automatically effective Form S–3 or F–3 registration statement filed with the SEC and offered pursuant to Securities Act Rule 415 by a Well-Known Seasoned Issuer as defined in Securities Act Rule 405.[5] Similarly, under Section 7(b), the current fee for filings of any amendment or other change to documents initially filed pursuant to FINRA Rule 5110 is .01 percent of the net increase in the maximum aggregate offering price or other applicable value of all securities registered on an SEC registration statement, or any related Securities Act Rule 462(b) registration statement, or reflected on any Securities Act Rule 430A prospectus, or included on any other type of offering document. Section 7(b) also provides that the aggregate of all filing fees paid in connection with an SEC registration statement or other type of offering document shall not exceed $75,500. Thus, under Section 7, fees are currently capped with respect to offerings with an aggregate offering price of $750 million or more.

The rate of the filing fee rate has remained static since it was adopted in 1970, while the cap has been adjusted periodically, most recently in 2004.[6] However, the nature and complexity of offerings filed with the Department have changed substantially since the most recent adjustment. Many filings seek expedited review or ''same day

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] Section 7(a) provides that the amount of the filing fee may be rounded to the nearest dollar.

[6] *See* Securities Exchange Act Release No. 50984 (Jan. 6, 2005), 70 FR 2440 (Jan. 13, 2005) (Notice of Filing and Immediate Effectiveness of File No. SR–NASD–2004–177) (setting the maximum fee at $75,500). The fees for automatically effective Form S–3 or F–3 offerings were added in 2007 without adjusting the existing rates. *See* Securities Exchange Act Release No. 55360 (Feb. 27, 2007), 72 FR 9813 (Mar. 5, 2007) (Notice of Filing and Immediate Effectiveness of File No. SR–NASD–2007–006).

clearance'' and FINRA has deployed (and continues to deploy) significant technology resources and process enhancements to accommodate those needs.[7] The Department also has seen growth in filings of unlisted REITs, business development companies and other DPPs, which raise complex issues.

In support of its reviews under FINRA Rule 5110 and other regulatory responsibilities, FINRA is proposing to increase the rate and the fee cap for filings pursuant to FINRA Rule 5110. This fee, which is assessed on members, though typically borne by issuers, funds the Department's reviews as well as FINRA's extensive regulatory programs and services that support the public capital markets being accessed by issuers through such member firms. The proposed fee would increase the rate of the filing fee from .01 percent to .015 percent of the proposed maximum aggregate offering price or other applicable value of the securities, and would increase the maximum fee from $75,500 to $225,500.

Implementation

FINRA has filed the proposed rule change for immediate effectiveness. FINRA is proposing that the implementation date of the proposed rule change will be July 2, 2012. Specifically, the proposed adjusted fees and fee cap would become effective for filings and amendments made on or after July 2, 2012.

2. Statutory Basis

FINRA believes that the proposed rule change is consistent with the provisions of Section 15A(b)(5) of the Act,[8] which requires, among other things, that FINRA rules provide for the equitable allocation of reasonable dues, fees and other charges among members and issuers and other persons using any facility or system that FINRA operates or controls. FINRA believes that the proposed fees are reasonable based on the nature and scope of the Department's review pursuant to FINRA Rule 5110. The proposed fee also contributes to the general funding of FINRA's overall regulatory program and serves to ensure that FINRA is sufficiently capitalized to meet its regulatory responsibilities. The proposed fees are equitably allocated among members (or borne by issuers) as they are assessed as a percentage of the aggregate maximum offering proceeds in much the same way that SEC registration fees are assessed under Section 6(b) of the Securities Act of 1933. Moreover, the cap on offerings above $1.5 billion ensures that the fees collected from any particular member (or borne by any particular issuer) with respect to a filing are equitably allocated and not disproportionately borne by members (or issuers) participating in the very largest offerings.

B. Self-Regulatory Organization's Statement on Burden on Competition

FINRA does not believe that the proposed rule change will result in any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

Written comments were neither solicited nor received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(i) of the Act.[9] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.] [sic]

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov.* Please include File Number SR–FINRA–2012–029 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–FINRA–2012–029. This file number should be included on the subject line if email is used.

To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of such filing also will be available for inspection and copying at the principal offices of FINRA. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–FINRA–2012–029, and should be submitted on or before July 19, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–15805 Filed 6–27–12; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67245; File No. SR–Phlx–2012–80]

Self-Regulatory Organizations; NASDAQ OMX PHLX LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Technical and Conforming Amendments to the Pricing Schedule

June 22, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 [2] thereunder, notice is hereby given that, on June 14, 2012, NASDAQ OMX PHLX LLC

[7] *See, e.g., Regulatory Notice* 12–22 (April 2012).

[8] 15 U.S.C. 78*o*–3(b)(5).

[9] 15 U.S.C. 78s(b)(3)(a)(i). [sic]

[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

(''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to make various technical amendments to the Pricing Schedule to format pricing the same throughout the Pricing Schedule, correct a reference to Section IV fees and add the term ''Specialist'' to Section V.

The text of the proposed rule change is available on the Exchange's Web site at *http://www.nasdaqtrader.com/micro.aspx?id=PHLXfilings,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to make clarifying amendments to the Pricing Schedule. The Exchange proposes to amend Section II entitled ''Multiply Listed Options'' to reformat the rebates and fees from the current format, ''$.xx,'' to the format utilized in Section I, ''$0.xx,'' to conform the pricing format throughout the Pricing Schedule.

The Exchange also proposes to amend Section IV, A entitled ''PIXL Pricing'' to correct a reference which was inadvertently not amended in a prior filing to refer to Section II fees as ''Multiply Listed Options.'' The Exchange recently amended the title of Section II from ''Equity Options Fees'' to ''Multiply Listed Options Fees.'' [3] Finally, the Exchange proposes to amend Section V entitled ''Routing Fees'' to add the term ''Specialist'' to the category ''Firm/Broker Dealer/Market Maker.'' The Exchange recently amended the Pricing Schedule to redefine its market participant categories and separate the Specialist category from that of Market Maker.[4] At that time, the Exchange also filed SR–Phlx–2012–75, a filing pertaining to Routing Fees, and noted in that filing that for the purposes of Routing Fees, a Market Maker includes Specialists.[5] At this time the Exchange proposes to indicate that a Specialist shall be as defined in the Pricing Schedule and add the Specialist category to the Routing Fees. The Exchange believes that using the defined terms for purposes of the Routing Fees will provide more clarity to the Pricing Schedule and therefore proposes to add the term Specialist to the fees instead of utilizing the term Market Maker to define a Specialist solely for the Routing Fees.

2. Statutory Basis

The Exchange believes that its proposal to amend its Pricing Schedule is consistent with Section 6(b) of the Act [6] in general, and furthers the objectives of Section 6(b)(4) of the Act [7] in particular, in that it is an equitable allocation of reasonable fees and other charges among Exchange members and other persons using its facilities.

The Exchange's amendments to Section II are reasonable, equitable and not unfairly discriminatory because the amendments are not substantive in nature, but merely conform the manner in which the pricing is displayed so that the format is similar throughout the Pricing Schedule.

The Exchange's amendment to Section IV is reasonable, equitable and not unfairly discriminatory because this amendment clarifies the Pricing Schedule by correcting a reference that was inadvertently omitted in a prior filing to refer to Section II fees.

The Exchange's amendment to Section V is reasonable, equitable and not unfairly discriminatory because it also clarifies the Pricing Schedule by reverting to the terms as defined in the Preface. Today, a Specialist is defined in the Pricing Schedule as a separately defined market participant apart from a Market Maker,[8] although the Exchange noted in a separate filing that for purposes of Routing Fees a Market Maker includes a Specialist.[9] The Exchange now proposes to utilize the definition of Specialist, as defined in the Preface of the Pricing Schedule, for consistency. The Routing Fees which are applicable to a Specialist will remain the same.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were either solicited or received.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change has become effective pursuant to Section 19(b)(3)(A)(ii) of the Act.[10] At any time within 60 days of the filing of the proposed rule change, the Commission summarily may temporarily suspend such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act. If the Commission takes such action, the Commission shall institute proceedings to determine whether the proposed rule should be approved or disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–Phlx–2012–80 on the subject line.

[3] *See* Securities Exchange Act Release No. 67189 (June 12, 2012) (SR–Phlx–2012–77).

[4] *Id.*

[5] *See* Securities Exchange Act Release No. 67123 (June 5, 2012), 77 FR 35092 (June 12, 2012) (SR–Phlx–2012–75). Specifically, *see* note 3.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4).

[8] *See* SR–Phlx–2012–77.

[9] *See* Securities Exchange Act Release No. 67123 (June 5, 2012), 77 FR 35092 (June 12, 2012) (SR–Phlx–2012–75). Specifically, *see* note 3.

[10] 15 U.S.C. 78s(b)(3)(A)(ii).

Paper Comments

• Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–Phlx–2012–80. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Phlx–2012–80 and should be submitted on or before July 19, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–15808 Filed 6–27–12; 8:45 am]

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[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–67244; File No. SR–NYSEArca-2012–67]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing of Proposed Rule Change Amending NYSE Arca Rule 3.2 and NYSE Arca Equities, Inc. Rule 3.2, Which Concern the Nomination and Election of Fair Representation Directors

June 22, 2012.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b-4 thereunder,[2] notice is hereby given that on June 18, 2012, NYSE Arca, Inc. (the ''Exchange'' or ''NYSE Arca'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by NYSE Arca. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend NYSE Arca Rule 3.2 and NYSE Arca Equities, Inc. (''NYSE Arca Equities'') Rule 3.2, which concern the nomination and election of fair representation directors. The text of the proposed rule change is available on the Exchange's Web site at *www.nyse.com,* at the principal office of the Exchange, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the self-regulatory organization included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of those statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant parts of such statements.

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend NYSE Arca Rule 3.2 and NYSE Arca Equities Rule 3.2, which concern the nomination and election of fair representation directors.

Background

Section 6(b)(3) of the Securities Exchange Act of 1934, as amended (the ''Act''), requires that the rules of an exchange shall ''assure a fair representation of its members in the selection of its directors and administration of its affairs and provide that one or more directors shall be representative of issuers and investors and not be associated with a member of the exchange, broker, or dealer.'' [3] Exchange members who serve on exchange boards thus are sometimes referred to as ''fair representation directors.'' NYSE Arca Rule 3.2 sets forth a process for the nomination and selection of fair representation directors for the NYSE Arca Board of Directors (''NYSE Arca Board''), and NYSE Arca Equities Rule 3.2 sets forth a similar process for the nomination and selection of fair representation directors for the NYSE Arca Equities Board of Directors (''Equities Board'').[4]

The Exchange proposes to amend both rules to streamline those processes and make them more similar to the processes used by the New York Stock Exchange LLC (''NYSE'') [5] and NYSE MKT LLC (''NYSE MKT'').[6]

Amendments to NYSE Arca Rules

Under Section 3.02(a) of the NYSE Arca Bylaws, the NYSE Arca Board must have 8–12 Directors, and at least

[3] 15 U.S.C. 78f(b)(3).

[4] NYSE Arca Equities is a wholly-owned subsidiary of NYSE Arca.

[5] *See* Section 2.03(a) of the Third Amended and Restated Operating Agreement of New York Stock Exchange LLC (''NYSE Operating Agreement''), *available at http://usequities.nyx.com/sites/corporate.nyx.com/files/thirdamendedandrestatedoperatingagreementofnewyorkstockexchangellc.pdf* [sic]; Article III, Sections 1(C) and 5 of the Amended and Restated Bylaws of NYSE Market, Inc. (''NYSE Market Bylaws''), *available at http://usequities.nyx.com/sites/usequities.nyx.com/files/final_second_amended_and_restated_bylaws_of_nyse_market_inc_0.pdf* and Article III, Sections 1(C) and 5 of the Third Amended and Restated Bylaws of NYSE Regulation, Inc. (''NYSE Regulation Bylaws''), *available at http://www.nyse.com/pdfs/SecondAmendedandRestatedBylawsofNYSERegulationInc.PDF.*

[6] *See* Second Amended and Restated Operating Agreement of NYSE MKT LLC (''NYSE MKT Operating Agreement''), Section 2.03(a) and (h), *available at http://nyseamexrules.nyse.com/AMEX/pdf/operating_agreement.pdf.*

20 percent of the Directors must be individuals nominated by trading permit holders, with at least one director nominated by the Equities Trading Permit Holders (''ETP Holders'') of NYSE Arca Equities, and at least one director nominated by the Options Trading Permit Holders (''OTP Holders'') of the Exchange.[7] The exact number of Permit Holder Directors is determined from time to time by the NYSE Arca Board, subject to the percentage restrictions described above.

Nominating Committee Composition and Appointment

The Exchange proposes to amend NYSE Arca Rule 3.2(b)(2)(A) and (B) to change the composition of, and the appointment process for, the Nominating Committee for fair representation directors. Currently, the Nominating Committee has seven members, consisting of six OTP Holders and one member of the public. Sixty-five days prior to the expiration of the term of its members, the Nominating Committee publishes a slate of six eligible nominees to fill the positions during the next annual term of the Nominating Committee. OTP Holders in good standing may submit a petition to the Exchange to nominate additional eligible candidates to fill the OTP positions on the Nominating Committee, and the Chief Executive Officer of NYSE Arca appoints the public member to the Nominating Committee. If there are more than six nominees to the Nominating Committee, the Nominating Committee submits the nominees to the OTP Holders for an election.

The Exchange proposes to eliminate the public member position from the Nominating Committee and eliminate the nomination process for the Nominating Committee members and instead have the NYSE Arca Board appoint the members of the Nominating Committee. This change would be consistent with the fair representation nominating committee composition and selection processes followed by NYSE and NYSE MKT; each of those exchanges utilizes an appointed Director Candidate Recommendation Committee, which serves the same purpose as the Nominating Committee, and which does not include a public member.[8]

Petition Process for Fair Representation Director Nominees

Under current NYSE Arca Rule 3.2(b)(2)(C)(ii), the Nominating Committee publishes the names of the fair representation director nominees to the NYSE Arca Board no later than 65 days prior to the expiration of the term of its directors. OTP Holders may submit a petition to add another nominee within 10 business days after the Nominating Committee publishes its nominees to the NYSE Arca Board. If a written petition of the lesser of 35 OTP Holders or 10 percent of OTP Holders in good standing is submitted to the Nominating Committee, such person also is nominated by the Nominating Committee. The Board of Directors of NYSE Arca Holdings has 10 business days to object to the nominees in its sole discretion and may object to the nomination of a nominee if the nominee has been disciplined by any self-regulatory organization or is subject to a statutory disqualification under Section 3(a)(39) of the Act. If the Board of Directors of NYSE Arca Holdings objects to all the proposed nominees, the Nominating Committee must publish the names of eligible alternative nominees.

The Exchange proposes to amend this process to make it more efficient and more consistent with the petition process for fair representation directors for NYSE and NYSE MKT. Under proposed NYSE Arca Rule 3.2(b)(2)(C)(ii), the Nominating Committee would publish the names of the nominees to the Board of Directors on an ''Announcement Date'' each year sufficient to accommodate the nomination and petition processes of the proposed rule. OTP Holders in good standing would be permitted to nominate additional eligible candidates if a written petition of at least 10 percent of OTP Holders in good standing were submitted to the Nominating Committee within two weeks after the Announcement Date. The Exchange believes that the current 65-day period is unnecessarily long, and that instead using the Announcement Date with petitions due two weeks thereafter would be more efficient while preserving OTP Holders' rights and creating consistency with the processes used by NYSE and NYSE MKT.[9] The proposed rule differs from the current rule in that it eliminates the option for 35 OTP Holders, if they represent less than 10 percent of OTP Holders, to submit a petition. The Exchange believes that setting a minimum of 10 percent is appropriate and consistent with current NYSE and NYSE MKT processes as well as current NYSE Arca Equities Rule 3.2(b)(2)(C)(i). The current deadline for submitting petition nominations is 10 business days, which generally will be the same as the proposed deadline of two weeks, but the proposed change will make the time periods identical for all three exchanges.

Under the proposed rule, each petition candidate would be required to include a completed questionnaire used to gather information concerning director candidates, and the Nominating Committee would determine whether the petition candidate is eligible to serve on the NYSE Arca Board (including whether such person was free of a statutory disqualification under Section 3(a)(39) of the Act), and such determination would be final and conclusive. The Exchange believes that, similar to the NYSE and NYSE MKT processes,[10] the Nominating Committee, rather than the Board of Directors of NYSE Arca Holdings, should determine the qualifications of a petition candidate. The questionnaire would be a new requirement to assist the Nominating Committee in reaching its decision. Such a questionnaire is already used by NYSE and NYSE MKT.[11]

Contested Nominations

Under current NYSE Arca Rule 3.2(b)(2)(C)(iii), in the event that the OTP Holder position is nominated by the Nominating Committee pursuant to petition by the OTP Holders, and there are two or more nominees for the NYSE Arca Board, the Nominating Committee must submit the contested nomination to the OTP Holders for selection. The nominee for the NYSE Arca Board selected by the most OTP Holders is submitted by the Nominating Committee to the NYSE Arca Board. The Exchange proposes to amend this text to simplify it and provide that if the number of nominees exceeds the number of available seats, the Nominating Committee would submit the contested nomination to the OTP

[7] In addition, at least 50 percent of the directors must be directors who represent the public. The Nominating Committee of NYSE Arca Holdings, Inc. (''NYSE Arca Holdings'') nominates the directors for election to the NYSE Arca Board (other than the fair representation directors) at the annual meeting of NYSE Arca Holdings. NYSE Arca is a non-stock corporation with one authorized membership interest; the sole member is NYSE Arca Holdings. *See* Sections 2.01 and 3.02 of the NYSE Arca Bylaws.

[8] *See* Section 2.03(a)(iii) and (iv) of the NYSE Operating Agreement; Article III, Section 5 of the NYSE Market Bylaws; Article III, Section 5 of the NYSE Regulation Bylaws; and Section 2.03(h) of the NYSE MKT Operating Agreement.

[9] *See* Section 2.03(a)(iv) of the NYSE Operating Agreement and Section 2.03(a)(iv) of the NYSE MKT Operating Agreement.

[10] The NYSE Euronext nominating and governance committee evaluates the qualifications of petition candidates. *Id.*

[11] *Id.*

Holders for selection, and the nominee for the NYSE Arca Board receiving the most votes of OTP Holders would be submitted by the Nominating Committee to the NYSE Arca Board. The current rule does not describe the voting process. The Exchange proposes to amend the rule to explicitly provide that OTP Holders would be afforded no less than 20 calendar days to submit their votes on a confidential basis.

Amendments to NYSE Arca Equities Rules

Similar to the NYSE Arca Bylaws, Section 3.02(a) of the NYSE Arca Equities Bylaws (''Equities Bylaws'') requires that at least 20 percent of the Equities Board, but no fewer than two Directors, must be nominees of the Nominating Committee of the Equities Board (''Equities Nominating Committee'') selected in accordance with NYSE Arca Equities Rule 3.2. Under Section 3.02(e) of the Equities Bylaws, the Equities Board nominates directors for election at the annual meeting of stockholders, and such nominations must comply with Section 3.02(a) of the Equities Bylaws and NYSE Arca Equities Rules.[12]

Nominating Committee Composition and Appointment

Current NYSE Arca Equities Rule 3.2(b)(2)(A) and (B) are similar to the counterpart NYSE Arca rules described above. Under current NYSE Arca Equities Rule 3.2(b)(2)(A), the Equities Nominating Committee has seven members, consisting of six ETP Holders and one member of the public. Under current NYSE Arca Equities Rule 3.2(b)(2)(B), 65 days prior to the expiration of the term of its members, the Equities Nominating Committee publishes a slate of six eligible nominees to fill the positions of the Equities Nominating Committee during the next annual term. ETP Holders in good standing may submit a petition to the Exchange to nominate additional eligible candidates to fill the ETP positions on the Equities Nominating Committee, and the Chief Executive Officer of NYSE Arca Equities appoints the public member to the Equities Nominating Committee.[13] If there are more than six nominees to the Equities Nominating Committee, the Equities Nominating Committee submits the nominees to the ETP Holders for an election.

As proposed with respect to NYSE Arca Rule 3.2(b)(2)(A) and (B), and consistent with current NYSE and NYSE MKT processes described above, the Exchange proposes to amend NYSE Arca Equities Rule 3.2 to eliminate the public member position from the Equities Nominating Committee and eliminate the nomination process for the Equities Nominating Committee members and instead have the Equities Board appoint the members of the Equities Nominating Committee.

Petition Process for Fair Representation Director Nominees

Although current NYSE Arca Rule 3.2(b)(2)(C) and current NYSE Arca Equities Rule 3.2(b)(2)(C) are also substantially similar with respect to the petition process for fair representation director nominees, there are certain differences in processes for NYSE Arca Equities. The NYSE Arca Equities Nominating Committee publishes the names of two nominees to the Equities Board and one nominee to the NYSE Arca Board, and ETP Holders select two nominees for any contested seat on the Equities Board and one nominee for any contested seat on the NYSE Arca Board.[14]

Under current NYSE Arca Equities Rule 3.2(b)(2)(C)(ii), the Equities Nominating Committee publishes the names of the fair representation director nominees no later than 65 days prior to the expiration of the term of the directors. ETP Holders may submit a petition to add another nominee within 10 business days after the Equities Nominating Committee publishes its nominees. If a written petition of at least 10 percent of ETP Holders in good standing is submitted to the Equities Nominating Committee within 45 days preceding the expiration of the current term, such person is also nominated by the Equities Nominating Committee. Unlike NYSE Arca Rule 3.2(b)(2)(C), there is no objection process for petition candidates.

The Exchange proposes to amend this process to align it with the NYSE and NYSE MKT processes and proposed NYSE Arca Rule 3.2(b)(2)(C) for the same reasons stated above with respect to proposed NYSE Arca Rule 3.2. Under proposed NYSE Arca Equities Rule 3.2(b)(2)(C)(ii), the Nominating Committee would publish the names of the nominees on an ''Announcement Date'' each year sufficient to accommodate the nomination and petition processes of the proposed rule. ETP Holders in good standing would be permitted to nominate additional eligible candidates if a written petition of at least 10 percent of ETP Holders in good standing were submitted to the Equities Nominating Committee within two weeks after the Announcement Date. Each petition candidate would be required to include a completed questionnaire used to gather information concerning director candidates, and the Equities Nominating Committee would determine whether the petition candidate is eligible to serve on the NYSE Arca Board (including whether such person was free of a statutory disqualification under Section 3(a)(39) of the Act), and such determination would be final and conclusive.

Contested Nominations

Under current NYSE Arca Equities Rule 3.2(b)(2)(C)(ii), if there is a contested nomination, the Equities Nominating Committee submits it to the ETP Holders, which may select two nominees for the contested seat on the Equities Board and one nominee for the contested seat on the NYSE Arca Board. The Exchange proposes to simplify this text to align it with the proposed changes to NYSE Arca Rule 3.2(b)(2)(C)(iii).

Current NYSE Arca Equities Rule 3.2(b)(2)(C)(ii) does not describe the voting process. The Exchange proposes to amend the rule to explicitly provide that ETP Holders would be afforded no less than 20 calendar days to submit their votes on a confidential basis.

Technical and Conforming Changes

NYSE Arca Equities Rule 3.2 refers to the governing body of NYSE Arca as the Board of Governors; the Rule should instead refer to the NYSE Arca Board of Directors.[15] As such, the Exchange proposes to change references to the NYSE Arca Board of Governors to the NYSE Arca Board of Directors.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with

[12] A 10-member Equities Board must include two nominees of the Nominating Committee, five from the public (including at least three from the NYSE Arca Board), one individual from a firm employing an ETP or Equity ASAP holder (which individual serves concurrently on the NYSE Arca Board), the chief executive officer of the NYSE Arca, and the current president of NYSE Arca Equities (unless the president has notified the Corporation of his or her intention to resign or retire, in which case, the designated successor president shall be nominated.) *See* Section 3.02(e) of the Equities Bylaws.

[13] The NYSE Arca and NYSE Arca Equities rules differ with respect to how many trading permit holders are required to submit a petition.

[14] By comparison, the NYSE Arca Nominating Committee publishes the name of one nominee to the NYSE Arca Board, and OTP Holders may select one nominee for the contested seat on the NYSE Arca Board.

[15] *See* Article III of the NYSE Arca Bylaws.

Section 6(b)(3) of the Act,[16] which requires that the rules of an exchange assure a fair representation of its members in the selection of its directors and administration of its affairs and provide that one or more directors shall be representative of issuers and investors and not be associated with a member of the exchange, broker, or dealer. The Exchange believes that it is not necessary to have a public member on its Nominating Committees under NYSE Arca Rule 3.2 and NYSE Arca Equities Rule 3.2 because the purpose is to represent the interests of the membership, not the public, and NYSE and NYSE MKT do not include a public member on their equivalent nominating committees and appoint, rather than elect, their nominating committees that serve the same purpose.

The proposed petition process will continue to assure a fair representation of OTP and ETP Holders in the selection of directors that is consistent with the processes for NYSE and NYSE MKT and allows a reasonable period of time for trading permit holders to submit a petition and to vote on a contested nomination. The Exchange further believes that it is appropriate to remove the option for 35 OTP Holders to submit a petition because the total number of OTP Holders varies from time to time and instead requiring at least 10% of the current OTP Holders support the petition assures that only candidates that have a consistent minimum level of support can trigger a contest. The Exchange believes that the proposed petition process will continue to allow trading permit holders to have a voice in the administration of the Exchange and thus help to ensure that the Exchange is administered in a way that is equitable to all participants who trade on the Exchange.

Finally, the Exchange notes that the proposed rule change would not affect the number of fair representation candidates on the boards or any other aspect of the boards' composition or the remainder of the boards' nomination process. The proposed rule change also would continue to ensure that persons subject to a statutory disqualification under the Act could not serve on the Exchange's boards.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

[16] 15 U.S.C. 78f(b)(3).

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 45 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve or disapprove such proposed rule change; or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an email to *rule-comments@sec.gov*. Please include File Number SR–NYSEArca–2012–67 on the subject line.

Paper Comments

- Send paper comments in triplicate to Elizabeth M. Murphy, Secretary, Securities and Exchange Commission, 100 F Street NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca-2012–67. This file number should be included on the subject line if email is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for Web site viewing and printing in the Commission's Public Reference Room, 100 F Street NE., Washington, DC 20549, on official business days between the hours of 10:00 a.m. and 3:00 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSEArca–2012–67 and should be submitted on or before July 19, 2012.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Kevin M. O'Neill,

Deputy Secretary.

[FR Doc. 2012–15807 Filed 6–27–12; 8:45 am]

BILLING CODE 8011–01–P

[17] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Reporting and Recordkeeping Requirements Under OMB Review

AGENCY: Small Business Administration.

ACTION: Notice of reporting requirements submitted for OMB review.

SUMMARY: Under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35), agencies are required to submit proposed reporting and recordkeeping requirements to OMB for review and approval, and to publish a notice in the **Federal Register** notifying the public that the agency has made such a submission.

DATES: Submit comments on or before July 30, 2012. If you intend to comment but cannot prepare comments promptly, please advise the OMB Reviewer and the Agency Clearance Officer before the deadline.

Copies: Request for clearance (OMB 83–1), supporting statement, and other documents submitted to OMB for review may be obtained from the Agency Clearance Officer.

ADDRESSES: Address all comments concerning this notice to: Agency Clearance Officer, Curtis Rich *Curtis.rich@sba.gov* Small Business Administration, 409 3rd Street SW., 5th Floor, Washington, DC 20416; and OMB

Reviewer, Office of Information and Regulatory Affairs, Office of Management and Budget, New Executive Office Building, Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Curtis Rich, Agency Clearance Officer, (202) 205–7030.

SUPPLEMENTARY INFORMATION:

Title: ''Representatives used and Compensation paid for Services in Connection with obtaining Federal Contracts''.

Frequency: On Occasion.

SBA Form Number: 1790.

Description of Respondents: 8(a) Program Participants.

Responses: 15,810.

Annual Burden: 3,953.

Title: ''Disaster Home/Business Loan Inquiry Records''.

Frequency: On Occasion.

SBA Form Number: 700.

Description of Respondents: Business Applications for Pre Disasters.

Responses: 2,988.

Annual Burden: 747.

Curtis Rich,

Acting Chief, Administrative Information Branch.

[FR Doc. 2012–15901 Filed 6–27–12; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Draft Specification for Airport Light Bases, Transformer Housings, Junction Boxes, and Accessories, Advisory Circular 150/5345–42G; Opportunity To Comment

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Notice.

SUMMARY: The Federal Aviation Administration (FAA), DOT invites airports consultants, industry representatives and all other interested parties to review and comment on the Draft ''Specification for Airport Light Bases, Transformer Housings, Junction Boxes, and Accessories Airport Design'' Advisory Circular, AC 150/5345–42G. The Advisory Circular provides standards and recommendations for airport light bases, transformer housings, junction boxes and accessories.

The FAA has posted the AC on the Internet at: *http://www.faa.gov/airports/resources/advisory_circulars/.*

DATES: Comments must be received on or before August 13, 2012. Comments that are received after that date will be considered to the extent possible.

FOR FURTHER INFORMATION CONTACT: Raymond Zee, P.E., Airport Engineering Division, (AAS–100), Federal Aviation Administration, 800 Independence Ave. SW., Washington, DC 20591; telephone (202) 267–7874.

ADDRESSES: Comments must be submitted by:

- *Hand Delivery/Courier:* Federal Aviation Administration, 800 Independence Avenue SW., AAS–100, Room 621, Washington DC 20590.
- *FAX:* (202) 267–3688.

SUPPLEMENTARY INFORMATION: Title 49 of the United States Code, section 47108(a), provides that the Secretary may impose terms on the offer that the Secretary considers necessary to carry out this subchapter and regulations to be assumed by the sponsor. Uniform design standards for airports can be found in the Federal Aviation Administration advisory circular and mandatory use is required on all Federal Airport Improvement Program projects. This draft AC incorporates all previous changes and numerous technical updates. Change bars are used to signify what has changed from the previous document. Principal changes include:

a. Section 2, applicable Documents: All download Web sites are updated. Document titles updated.

b. Paragraph 3.1.3.6 is updated to include a prohibition of exothermic welds on galvanized steel light bases.

c. The use of coated steel fasteners (SAE Grade2 or ASTM A307–A) per Engineering Brief (EB) 83, In-Pavement Light Fixture Bolts is introduced where applicable in the AC.

d. Paragraph 4.3.10 is updated to replace the AC 150/5345–42F torque test for L868 light bases with the 150/5345–42C version.

e. Figure 2, Body, Type L–867, Class IA, Class IB, Class IIA, Class IIB, is updated to show that the AAA dimension for the bottom diameter has increased from 13.000 inches to 13.500 inches for easier weld fabrication.

f. Figure 6, Body, Type L–868, Class IA, Class IB is updated to show a 1/2-inch increase in the maximum AAA dimension for the bottom diameter for easier weld fabrication.

g. Figure 8, Extensions, Type L–868, Class IA, Class IB is updated to show an increase in the extension height to order from 2.0 in. to 2.25 in. Spacer ring maximum thickness is changed from 1-15/16 inches to 2-3/16 inches.

h. Figure 8, Extensions, Type L–868, Class IA, Class IB is updated to show an increase in the extension height to order from 2.0 in. to 2.25 in. Spacer ring maximum thickness is changed from $1^{15}/_{16}$ inches to $2^{3}/_{16}$ inches.

Issued in Washington, DC, on June 15, 2012.

Michael O'Donnell,

Director, Office of Airport & Safety Standards.

[FR Doc. 2012–15790 Filed 6–27–12; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

Public Notice for Waiver of Aeronautical Land-Use Assurance; Chan Gurney Municipal Airport,Yankton, SD

AGENCY: Federal Aviation Administration, DOT.

ACTION: Notice of intent of waiver with respect to land.

SUMMARY: The Federal Aviation Administration (FAA) is considering a proposal to authorize the release of 11.92 acres of the airport property at the Chan Gurney Municipal Airport, Yankton, South Dakota. The proposal consists of the trade of unimproved land on the northwest side of the airport owned by the City of Yankton for an equal parcel of land located on the north central side of the airport.

The acreage being released is not needed for aeronautical use as currently identified on the Airport Layout Plan. There are no impacts to the airport by allowing the City of Yankton to trade properties. Approval does not constitute a commitment by the FAA to financially assist in the disposal of the airport property nor a determination of eligibility for grant-in-aid funding from the FAA.

In accordance with section 47107(h) of title 49, United States Code, this notice is required to be published in the **Federal Register** 30 days before modifying the land-use assurance that requires the property to be used for aeronautical purpose.

DATES: Comments must be received on or before July 30, 2012.

ADDRESSES: Mr. Brian P. Schuck, Program Manager, Bismarck Airports District Office, 2301 University Drive, Building 23B, Bismarck, North Dakota, 58504.

FOR FURTHER INFORMATION CONTACT: Mr. Brian P. Schuck, Program Manager, Bismarck Airports District Office, 2301 University Drive, Building 23B, Bismarck, North Dakota. Telephone Number (701) 323–7380/FAX Number (701) 323–7399. Documents reflecting this FAA action may be reviewed at this same location or at the City of Yankton Finance Office, 416 Walnut Street, Yankton, South Dakota.

SUPPLEMENTARY INFORMATION: Following is a description of the subject airport property to be released at the Chan Gurney Municipal Airport.

This property for release is for a land trade at the Chan Gurney Municipal Airport owned by the City of Yankton, South Dakota. The property for release was originally acquired under Airport Improvement Program grant numbers 3–46–0062–007–1988 and 9–39–019–C503. These 11.92 acres are located in the sw quarter of section 30 and northwest quarter of section 31, Township 31 North, Range 55 West of the 5th Principle Meridian. The parcels are further described as Plat of Lot 1 of Tract 1 Airport Lot A15, Lot 1 of Tract 2 Airport Lot A15, Lots 1 & 2 of Parcel B in the SE¼ of Section 30 and Airport Lot A16 lying in Government Lot 1, Section 31, all in T 94 N, R 55 W, of the 5th P.M., Yankton, South Dakota.

Said parcels subject to all easements, restrictions, and reservations of record.

Issued in Bismarck, North Dakota on June 8, 2012.

Thomas T. Schauer,

Manager, Bismarck Airports District Office FAA, Great Lakes Region.

[FR Doc. 2012–15915 Filed 6–27–12; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2012–0051]

Agency Information Collection Activities: Request for Comments for a New Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for a new information collection, which is summarized below under **SUPPLEMENTARY INFORMATION**. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by August 27, 2012.

ADDRESSES: You may submit comments identified by DOT Docket ID 2012–0051 by any of the following methods:

Web Site: For access to the docket to read background documents or comments received; go to the Federal eRulemaking Portal: Go to *http://www.regulations.gov*. Follow the online instructions for submitting comments.

Fax: 1–202–493–2251.

Mail: Docket Management Facility, U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

Hand Delivery or Courier: U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Michael Nesbitt (*michael.nesbitt@dot.gov*), 202–366–1179 Office of Infrastructure, Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590. Office hours are from 8 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Engage@FHWA: Comments, Ratings, Rankings, and Flagging Tools.

Background: This information collection request is for a clearance to fulfill the public feedback aspects of the Engage@FHWA National Dialogue initiative. Visitors to Engage@FHWA National Dialogue Web sites will be provided with opportunities to submit feedback and ratings in the spirit of promoting open government and transparency at FHWA. Examples of feedback mechanisms are:

1. An ''agree/disagree'', ''vote up/vote down'' or other rating system to give visitors information about which posts other visitors find most useful and interesting.

2. A ''Contact Us'' entry page with an optional contact email address for those visitors wishing to identify themselves.

3. Submit ideas and comments features.

Estimated Burden of Information Collection: This ICR is for a three-year standard clearance of the FHWA comment, rating, ranking and flagging mechanisms, and those used by its program offices implementing the Engage@FHWA intiative.

IC's are included in this package for the following feedback mechanisms:

Comments/Voting/Rating/Ranking/Flagging for Public Support or Disagreement: It is estimated that across the FHWA 14,400 votes/comments/ratings/flags may be submitted annually as offices engage the public in the spirit of open government. Each of the comment/ratings is estimated to take 30 seconds to complete. Therefore, it is estimated that 72000 minutes (120 hours) per year may be expended to submit votes/ratings as agencies engage the public in open government activities.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burden; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of computer technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued on: June 22, 2012.

Steven Smith,

Chief, Information Technology Division.

[FR Doc. 2012–15918 Filed 6–27–12; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2012–0050]

Agency Information Collection Activities: Request for Comments for a New Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for a new information collection, which is summarized below under **SUPPLEMENTARY INFORMATION**. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by August 27, 2012.

ADDRESSES: You may submit comments identified by DOT Docket ID 2012–0050 by any of the following methods:

Web Site: For access to the docket to read background documents or comments received; go to the Federal eRulemaking Portal: Go to *http://www.regulations.gov.* Follow the online instructions for submitting comments.

Fax: 1–202–493–2251.

Mail: Docket Management Facility, U.S. Department of Transportation, West Building Ground Floor, Room

W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

Hand Delivery or Courier: U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Michael Nesbitt (*michael.nesbitt@dot.gov*), 202–366–1179 Office of Infrastructure, Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590. Office hours are from 8 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Engage@FHWA: Challenges, Competitions, and Contest Activities.

Background: This request is to seek generic clearance for the collection of routine information requested of responders to solicitations the Federal government makes during the issuance of challenges and competitions posted on the General Service Administration (GSA)'s Challenge.gov Web site and similar Web sites hosted by third-party vendors. Challenge competitions are increasingly being used by Federal agencies to solve complex problems and obtain innovative solutions. In this role, the Federal government places a description of a problem and parameters of the solution on the Web sites like Challenge.gov. The solutions are evaluated by the submitting agency and typically prizes (monetary and non-monetary) are awarded to the winning entries.

This clearance applies to challenges posted on Web sites like Challenge.gov which use common platforms for the solicitation of challenges from the public. FHWA program offices design the criteria for its solicitations based on the goals of the challenge and the specific needs of the agency and program office. There is no standard submission format for solution providers to follow.

We anticipate that approximately 20 challenges would be issued each year by FHWA, with an average of 30 submissions to each challenge solicitation. There is no set schedule for the issuance of challenges; they are developed and issued on an ''as needed'' basis in response to issues that the federal agency wishes to solve.

Although in recent memoranda the GSA and OMB described circumstances whereby OMB approval of a PRA request is not needed, program officials at FHWA have identified several sets of information that will typically need to be requested of solution providers to enable the solutions to be adequately evaluated by the FHWA program office issuing the challenge. It has been indicated that these requests for additional information require a PRA review, as they represent structured data requests.

There are four types of additional data that will be routinely requested by FHWA and its program offices. These include the following:

Title of the Submission

Due to the nature of the submission and evaluation processes, it is important that a title be requested and submitted for each submission in order to ensure the solution is correctly identified with its provider.

Identification of Data Resources

In many cases, the solution to a problem will require the solution provider to use data resources. Often, the nature of the data sets will be derived from Federal data resources, such as data.gov. Evaluations of solutions will often depend on the understanding of the selection of the data resource(s) used in the solution.

Description of Methodology

For effective judging and evaluation, a description of the development methods for the solution to the challenge will be requested. For instance, a prize may be awarded to the solution of a challenge to develop an algorithm that enables reliable prediction of a certain event. A responder could submit the correct algorithm, but without the methodology, the evaluation process could not be adequately performed.

Profession, Field of Study, Student Status (Including Major, Expected Graduation Year), and/or Business/Organization Status (Nonprofit, Government, Small-Business, For-Profit, etc.)

In order to better refine how FHWA markets the challenge, FHWA needs data on which professional fields and student majors are participating. This data is also needed to structure competitions, challenges, and contests that require categorical submissions (students, small-business, corporation, individual, etc.) Categorical submissions may be used when it is needed to award prizes in categories; and therefore, judge submissions by categories (i.e. student submissions compared to students).

The estimated annual burden request is summarized here:

Estimated total number of potential respondents: 600.

Estimated total number of potential responses per respondent: 1.

Frequency of response: Annually.

Estimated average burden (in minutes) per response: 10 minutes.

Estimated total annual burden hours: 100 hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burden; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of computer technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued on: June 22, 2012.

Steven Smith,

Chief, Information Technology Division.

[FR Doc. 2012–15920 Filed 6–27–12; 8:45 am]

BILLING CODE P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2012–0063]

Agency Information Collection Activities: Request for Comments for a New Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for a new information collection, which is summarized below under **SUPPLEMENTARY INFORMATION**. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by August 27, 2012.

ADDRESSES: You may submit comments identified by DOT Docket ID 2012–0063 by any of the following methods:

Web Site: For access to the docket to read background documents or comments received go to the Federal eRulemaking Portal: Go to *http://*

www.regulations.gov. Follow the online instructions for submitting comments.

Fax: 1–202–493–2251.

Mail: Docket Management Facility, U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590–0001.

Hand Delivery or Courier: U.S. Department of Transportation, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590, between 9 a.m. and 5 p.m. ET, Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: James A. Cheatham, *james.cheatham@dot.gov,* 202–366–6221, Office of Planning, Environment, and Realty, Federal Highway Administration, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC, 20590. Office hours are from 7:45 a.m. to 4:15 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Assessment of Transportation Planning Agency Needs, Capabilities, and Capacity.

Background: FHWA will collect information on the current state of the practice, data, methods, and systems used by state, metropolitan, regional, local, and tribal transportation planning entities to support their required planning process in accordance with Title 23 United States Code 134 and 135. This includes, but is not limited to, information to support transportation research, capacity building, data collection, planning, travel modeling, and performance management. This also includes information about how data is shared between planning agencies and how it is processed and used in the planning context. Questionnaires will be sent to State DOT headquarters and districts, Metropolitan Planning, Organizations, Regional Planning Organizations, and Tribal Governments. FHWA anticipates that one representative from each agency will take approximately 30 minutes to complete up to 4 questionnaires each year. The questionnaires will be administered via the Internet and invitations to participate in the questionnaire will be distributed via email.

This information, once compiled, will allow the FHWA to better understand the existing capabilities that agencies across the country have in support of the planning process and the readiness they possess to handle new and ongoing challenges. As a result of the collected information, FHWA will focus its efforts and resources on providing targeted and meaningful support for planning and readiness nationwide. Additionally, FHWA will ensure that excellent planning practices are identified will be shared broadly across the country.

Respondents: Respondents are representatives of State DOT headquarters and districts, Metropolitan Planning, Organizations, Regional Planning Organizations, and Tribal Governments.

Respondents: 950 respondents annually.

Frequency: 4 per year for 3 years.

Estimated Average Burden per Response: Approximately 30 minutes.

Estimated Total Annual Burden Hours: Up to 1,900 hours annually.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burden; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of computer technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued on: June 22, 2012.

Steven Smith,

Chief, Information Technology Division.

[FR Doc. 2012–15921 Filed 6–27–12; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Environmental Impact Statement: Ouachita Parish, LA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of intent.

SUMMARY: The FHWA is issuing this notice to advise the public that an Environmental Impact Statement will be prepared for a proposed bridge and highway project in Ouachita Parish, Louisiana.

FOR FURTHER INFORMATION CONTACT: Mr. Carl M. Highsmith, Project Delivery Team Leader, Louisiana Division, Federal Highway Administration, 5304 Flanders Drive, Suite A, Baton Rouge, LA 70808 Telephone: 225.757.7615.

SUPPLEMENTARY INFORMATION: The Federal Highway Administration (FHWA), in cooperation with the Louisiana Department of Transportation and Development (DOTD), will prepare an Environmental Impact Statement (EIS) on a proposal to construct the LA 143—US 165 Connector and Ouachita River Bridge in Ouachita Parish, Louisiana.

The proposed project consists of a 1.8-mile highway north of the corporate limits of West Monroe connecting Louisiana Highway 143 (LA 143) to a new bridge crossing of the Ouachita River, and a 3.7-mile highway north of the Monroe city limits connecting the new bridge to U.S. Highway 165 (US 165). The southern connection intersects with US 165 at the Forsythe Avenue Extension and the future Kansas Lane Connector. The northern connection intersects with US 165 at Fink's Hideaway Road.

The LA 143—US 165 Connector and Ouachita River Bridge project is designed to reduce traffic congestion on existing Ouachita River bridge crossings north of Interstate 20, link rural transportation facilities, and provide a segment of independent utility for a future, complete roadway loop around the cities of Monroe and West Monroe in an effort to move people and goods more efficiently across the Ouachita River and within rural portions of Ouachita Parish.

The bridge location and new highway alignments were developed in the Stage 0 Feasibility Report prepared in July 2008 and supported by the Ouachita Council of Governments Monroe Urbanized Metropolitan Transportation Plan 2035 Study. Two build alternatives proposed in the Stage 0 Report, along with the No Build alternative, will be evaluated in the EIS. An additional build alternative may also be developed for evaluation in the EIS depending upon social, economic, and environmental considerations made known through formal scoping meetings that will be held upon initiation of the project. Incorporated into and studied with the various build alternatives will be design variations of grade and alignment and a Level I Toll Study.

Letters describing the proposed action and soliciting comments will be sent to the appropriate Federal, State, and local agencies and to private organizations and citizens who have previously expressed or are known to have an interest in this proposal. Federal agencies with jurisdiction by law with regard to social, economic, and environmental impacts of this proposal will be requested to be a Cooperating Agency in this matter in accordance

with 40 Code of Federal Regulations 1501.6. In addition to scoping meetings, numerous public involvement initiatives, including public meetings, newsletters, and stakeholder and local official briefings, will be held throughout the course of study. A Draft EIS will be available for public and agency review prior to a public hearing. Public notice will be given, in local newspapers, of the availability of the Draft EIS and the time and place of all public meetings and the public hearing.

To ensure that the full range of issues related to this proposed action are addressed and all significant issues identified, comments and suggestions are invited from all interested parties. Comments or questions concerning this proposed action and the EIS should be directed to the FHWA at the address provided above.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Issued on: June 21, 2012.

Charles W. Bolinger,

Division Administrator, Baton Rouge, Louisiana.

[FR Doc. 2012–15662 Filed 6–27–12; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Surface Transportation Environment and Planning Cooperative Research Program (STEP)

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice.

SUMMARY: Section 5207 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) established the Surface Transportation Environment and Planning Cooperative Research Program (STEP). The FHWA anticipates that the STEP or a similar program to provide resources for national research on issues related to planning, environment, and realty will be included in future surface transportation legislation. In Fiscal Year (FY) 2013, the FHWA expects to seek partnerships with other Federal agencies and tribes, State and local governments, and nongovernmental transportation and environmental stakeholders that can leverage limited research funding in the STEP with other stakeholders and partners in order to increase the total amount of resources available to meet the Nation's surface transportation research needs. The purpose of this notice is to announce the STEP implementation strategy for FY 2013 and to request suggested lines of research for the FY 2013 STEP via the STEP Web site at *http://www.fhwa.dot.gov/hep/step/index.htm* in anticipation of future surface transportation legislation.

DATES: Suggestions for lines of research should be submitted to the STEP Web site on or before September 26, 2012.

FOR FURTHER INFORMATION CONTACT: Gabe Rousseau, Acting Director, Office of Human Environment, (202) 366–8044, *Gabe.Rousseau@dot.gov* or Seetha Srinivasan, Office of the Chief Counsel, (202) 366–4099; Federal Highway Administration, 1200 New Jersey Avenue SE., Washington, DC 20590. Office hours are from 8 a.m. to 4:30 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

This document may be viewed online through the Federal eRulemaking portal at: *http://www.regulations.gov.* Electronic submission and retrieval help and guidelines are available on the Web site. It is available 24 hours each day, 366 days this year. Please follow the instructions. An electronic copy of this document may also be downloaded from the Office of the Federal Register's home page at: *http://www.archives.gov/federal-register* and the Government Printing Office's Web page at: *http://www.gpo.gov/fdsys.*

Background

Section 5207 of SAFETEA–LU (Pub. L. 109–59, Aug. 10, 2005), established the STEP in Section 507 of Title 23, United States Code. The FHWA anticipates that the STEP or a similar program to provide resources for national research on issues related to planning, environment, and realty will be included in future surface transportation legislation. The general objective of the STEP is to improve understanding of the complex relationship between surface transportation, planning, and the environment.

The SAFETEA–LU provided $16.875 million per year for FY 2006–2009 to implement this cooperative research program. Due to obligation limitations, rescissions, and congressional designations of Title V Research in SAFETEA–LU, an average of $14.5 million of the authorized $16.875 million was only available each fiscal year to help implement the cooperative research program.

The STEP is the primary source of funds for FHWA to conduct research and develop tools and technologies to advance the state of the practice regarding national surface transportation and environmental decisionmaking. In FY 2013, the FHWA expects to seek partnerships with other Federal agencies and tribes; State and local governments; and nongovernmental transportation and environmental stakeholders. These partnerships can help leverage limited research funding in the STEP and increase the total amount of resources available to meet the Nation's surface transportation research needs.

The FY 2013 STEP will support the implementation of a national research agenda that includes:

(1) Enhancing knowledge of strategies and tools available to accelerate project delivery while improving environmental outcomes;

(2) Conducting research to develop climate change mitigation, adaptation, and livability strategies;

(3) Developing and supporting accurate models and tools for evaluating transportation measures and developing indicators of economic, social, and environmental performance of transportation systems to facilitate alternative analysis;

(4) Developing and deploying research to address congestion reduction efforts;

(5) Developing transportation safety planning strategies for surface transportation systems and improvements;

(6) Improving planning, operation, and management of surface transportation systems and rights-of-way;

(7) Enhancing knowledge of strategies to improve transportation in rural areas and small communities;

(8) Strengthening and advancing State/local and tribal capabilities regarding surface transportation and the environment;

(9) Improving transportation decisionmaking and coordination across international borders;

(10) Improving state of the practice regarding the impact of transportation on the environment;

(11) Conducting research to promote environmental streamlining/stewardship and sustainability;

(12) Exchanging knowledge and strategies to improve performance-based planning and programming for transportation;

(13) Conducting research to identify, share, and test best practices to promote transportation and livability linkages;

(14) Disseminating research results and advances in state of the practice through peer exchanges, workshops, conferences, etc.;

(15) Meeting additional priorities as determined by the Secretary; and

(16) Refining the scope and research emphases through active outreach and consultation with stakeholders.

The FHWA is issuing this notice to: (1) Announce the STEP Implementation Strategy for the FY 2013 STEP in anticipation of future surface transportation legislation, and (2) Solicit comments on proposed research activities to be undertaken in the FY 2013 STEP via the STEP Web site. The STEP Implementation Strategy can be found at *http://www.fhwa.dot.gov/hep/step/about_step/strategy/.* That Strategy updates information on the graphs and charts regarding historical planning and environment research funding, and adds information about the proposed FY 2013 STEP including proposed funding levels, goals, and potential research activities. We invite the public to visit this Web site to obtain additional information on the STEP, as well as information on the process for forwarding comments to the FHWA regarding the STEP implementation plan. The URL for the STEP Web site is: *http://www.fhwa.dot.gov/hep/step/.*

The FHWA will use this Web site as a major mechanism for informing the public regarding the status of the STEP.

Authority: 23 U.S.C. 507.

OMB Approval for Specific Forms, Surveys, Questionnaires: Burden Statement

This collection of information is voluntary and will be used to identify potential research for the creation of a research plan for the FHWA STEP Program. Public reporting burden is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. No confidential information will be collected; therefore, no assurances of confidentiality will be provided. Please note that an agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid Office of Management and Budget (OMB) control number. The OMB control number for this collection is 2125–0627 (Expiration 6/30/14). Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: Information Collection Clearance Officer, Federal Highway Administration, 1200 New Jersey Avenue SE., Washington, DC 20590.

Authority: 5 CFR 1320.8.

Issued on: June 20, 2012.

Victor M. Mendez,

Administrator.

[FR Doc. 2012–15895 Filed 6–27–12; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

[Docket No. MARAD–2012 0073]

Requested Administrative Waiver of the Coastwise Trade Laws: Vessel ACURA JIGGER; Invitation for Public Comments

AGENCY: Maritime Administration, Department of Transportation.

ACTION: Notice.

SUMMARY: As authorized by 46 U.S.C. 12121, the Secretary of Transportation, as represented by the Maritime Administration (MARAD), is authorized to grant waivers of the U.S.-build requirement of the coastwise laws under certain circumstances. A request for such a waiver has been received by MARAD. The vessel, and a brief description of the proposed service, is listed below.

DATES: Submit comments on or before July 30, 2012.

ADDRESSES: Comments should refer to docket number MARAD–2012–0073. Written comments may be submitted by hand or by mail to the Docket Clerk, U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue SE., Washington, DC 20590. You may also send comments electronically via the Internet at *http://www.regulations.gov.* All comments will become part of this docket and will be available for inspection and copying at the above address between 10 a.m. and 5 p.m., E.T., Monday through Friday, except Federal holidays. An electronic version of this document and all documents entered into this docket is available on the World Wide Web at *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Joann Spittle, U.S. Department of Transportation, Maritime Administration, 1200 New Jersey Avenue SE., Room W21–203, Washington, DC 20590. Telephone 202–366–5979, Email *Joann.Spittle@dot.gov.*

SUPPLEMENTARY INFORMATION: As described by the applicant the intended service of the vessel ACURA JIGGER is:

Intended Commercial Use of Vessel: ''Charter the vessel for recreational fishing, cruising waterways, water activities/swimming, snorkeling.''

Geographic Region: ''Alabama, Florida, Georgia, Louisiana, Mississippi, South Carolina, and North Carolina.''

The complete application is given in DOT docket MARAD–2012–0073 at *http://www.regulations.gov.* Interested parties may comment on the effect this action may have on U.S. vessel builders or businesses in the U.S. that use U.S.-flag vessels. If MARAD determines, in accordance with 46 U.S.C. 12121 and MARAD's regulations at 46 CFR part 388, that the issuance of the waiver will have an unduly adverse effect on a U.S.-vessel builder or a business that uses U.S.-flag vessels in that business, a waiver will not be granted. Comments should refer to the docket number of this notice and the vessel name in order for MARAD to properly consider the comments. Comments should also state the commenter's interest in the waiver application, and address the waiver criteria given in § 388.4 of MARAD's regulations at 46 CFR part 388.

Privacy Act: Anyone is able to search the electronic form of all comments received into any of our dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (Volume 65, Number 70; Pages 19477–78).

By Order of the Maritime Administrator.

Dated: June 21, 2012.

Julie P. Agarwal,

Secretary, Maritime Administration.

[FR Doc. 2012–15726 Filed 6–27–12; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

National Highway Traffic Safety Administration

Information Collection Activities: Submission for the Office of Management and Budget (OMB) Review; Request for Comment

AGENCY: National Highway Traffic Safety Administration (NHTSA), DOT.

ACTION: Notice of the OMB review of information collection and solicitation of public comment.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection Request (ICR) abstracted below will be submitted to the Office of Management and Budget (OMB) for review. The ICR describes the nature of the information collection and its expected burden.

DATES: Submit comments to the Office of Management and Budget (OMB) on or before July 30, 2012.

FOR FURTHER INFORMATION CONTACT: Ms. Carole Guzzetta at the National Highway Traffic Safety Administration, Office of Impaired Driving and Occupant Protection, W44–219, Department of Transportation, 1200 New Jersey Avenue SE., Washington, DC 20590. Ms. Guzzetta's phone number is 202–366–3665 and her email address is *carole.guzzetta@dot.gov.*

SUPPLEMENTARY INFORMATION: A **Federal Register** Notice with a 60-day comment period soliciting public comments on the following information collection was published on December 16, 2011 (**Federal Register**/Vol. 76, No. 242/pp. 78334–78335).

OMB Control Number: 2127–New.

Title: Effectiveness of Child Passenger Safety Information for the Safe Transportation of Children.

Form No.: NHTSA Form 1174.

Type of Review: Regular.

Respondents: Parents and caregivers of children less than 13 years of age will respond to a series of questions after viewing child passenger safety messages.

Estimated Number of Respondents: 600 participants will be recruited for the testing sessions.

Estimated Time Per Response: 75 minutes per testing session.

Total Estimated Annual Burden Hours: 750 hours.

Frequency of Collection: The survey will be administered a single time.

Abstract: The National Highway Traffic Safety Administration (NHTSA) proposes to collect information from parents and caregivers of children less than 13 years of age about their knowledge, behavior, and perceptions of various child passenger safety (CPS) messages. Demographic information about the participants will also be collected. Participation in the study will be voluntary. Parents and caregivers will be recruited at various urban, suburban, and rural locations where they often go with child passengers (e.g., child care centers). They will be asked to participate in the study which will require them to go to a computer lab center, read CPS messages and respond to questions about these messages using touch-screen computers to reduce survey length and minimize recording errors. No personally identifiable information will be collected during the study. NHTSA will use the findings from this proposed collection of information to better understand how information and perceptions of CPS messages influence parents and caregivers to seek the most appropriate restraint systems for their children (less than 13 years of age). Findings of the study may be used to revise current CPS messages being publicized in the nation.

ADDRESSES: Send comments regarding the burden estimate, including suggestions for reducing the burden, to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street NW., Washington, DC 20503, Attention: Desk Officer for Department of Transportation, National Highway Traffic Safety Administration, or by email at *oira_submission@omb.eop.gov,* or fax: 202–395–5806.

Comments Are Invited On: whether the proposed collection of information is necessary for the proper performance of the functions of the Department of Transportation, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A comment to OMB is most effective if OMB receives it within 30 days of publication of this notice.

Authority: 44 U.S.C. 3506(c)(2)(A).

Issued in Washington, DC, on June 25, 2012.

Jeff Michael,

Associate Administrator, Research and Program Development, National Highway Traffic Safety Administration.

[FR Doc. 2012–15914 Filed 6–27–12; 8:45 am]

BILLING CODE 4910–59–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 1099X]

Sunflour Railroad, Inc.—Abandonment Exemption—in Roberts and Marshall Counties, S.D.

Sunflour Railroad, Inc. (SRI), has filed a verified notice of exemption under 49 CFR part 1152 subpart F—*Exempt Abandonments* to abandon 8.1 miles of rail line between milepost 228.2 at the east property line of 454th Avenue, located approximately one mile west of Claire City, and milepost 236.3 located at the western terminus of the line at Washington Avenue in Veblen, in Roberts and Marshall Counties, S.D. The line traverses United States Postal Service Zip Codes 57224 and 57270.

SRI has certified that: (1) No local traffic has moved over the line for at least 2 years; (2) no overhead traffic has moved over the line for at least 2 years; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the 2-year period; and (4) the requirements at 49 CFR 1105.7(c) (environmental report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on July 28, 2012, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[1]

[1] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Serv. Rail Lines,* 5 I.C.C. 2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may

Continued

formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[2] and trail use/rail banking requests under 49 CFR 1152.29 must be filed by July 9, 2012. Petitions to reopen or requests for public use conditions under 49 CFR 1152.28 must be filed by July 18, 2012, with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to SRI's representative: Thomas F. McFarland, 208 South LaSalle St., Suite 1890, Chicago, IL 60604.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

SRI has filed a combined environmental and historic report that addresses the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by July 3, 2012. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423–0001) or by calling OEA at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Information Relay Service at (800) 877–8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), SRI shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by SRI's filing of a notice of consummation by June 28, 2013, and there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: June 19, 2012.

By the Board, Richard Armstrong, Acting Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2012–15791 Filed 6–27–12; 8:45 am]

BILLING CODE 4915–01–P

take appropriate action before the exemption's effective date.

[2] Each OFA must be accompanied by the filing fee, which is currently set at $1,500. *See* 49 CFR 1002.2(f)(25).

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 117 (Sub-No. 8X)]

Elgin, Joliet & Eastern Railway Company—Abandonment Exemption—in Grundy County, Ill.

Elgin, Joliet & Eastern Railway Company (EJ&E) [1] has filed a verified notice of exemption under 49 CFR pt. 1152 subpart F—*Exempt Abandonments* to abandon a 2.26-mile line of railroad, known as the Goose Lake Segment, extending from milepost 27.91 to the end of the track at milepost 30.17 near Morris, in Grundy County, Ill.[2] The line traverses United States Postal Service Zip Code 60450.

In the notice, EJ&E explains that, following abandonment, it intends to convey the right-of-way to the Illinois Department of Natural Resources (ILDNR). In turn, ILDNR plans to use the right-of-way to connect with two properties that are adjacent to the right-of-way to increase the quality of the wetland and migratory bird habitat.

EJ&E has certified that: (1) No local traffic has moved over the line for at least two years; (2) there is no overhead traffic on the line; (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the two-year period; and (4) the requirements at 49 CFR 1105.7(c) (environmental report), 49 CFR 1105.11 (transmittal letter), 49 CFR 1105.12 (newspaper publication), and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.

As a condition to this exemption, any employee adversely affected by the abandonment shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) has been received, this exemption will be effective on July 28, 2012, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues,[3] formal expressions of intent to file an OFA under 49 CFR 1152.27(c)(2),[4] and trail use/rail banking requests under 49 49 CFR 1152.29 must be filed by July 9, 2012. Petitions to reopen or requests for public use conditions under 49 49 CFR 1152.28 must be filed by July 18, 2012, with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to EJ&E's representative: Jeremy M. Berman, Fletcher & Sippel LLC, 29 North Wacker Drive, Suite 920, Chicago, IL 60606.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

EJ&E has filed a combined environmental and historic report that addresses the effects, if any, of the abandonment on the environment and historic resources. OEA will issue an environmental assessment (EA) by July 3, 2012. Interested persons may obtain a copy of the EA by writing to OEA (Room 1100, Surface Transportation Board, Washington, DC 20423–0001) or by calling OEA at (202) 245–0305. Assistance for the hearing impaired is available through the Federal Information Relay Service at 1–800–877–8339. Comments on environmental and historic preservation matters must be filed within 15 days after the EA becomes available to the public.

Environmental, historic preservation, public use, or trail use/rail banking conditions will be imposed, where appropriate, in a subsequent decision.

Pursuant to the provisions of 49 CFR 1152.29(e)(2), EJ&E shall file a notice of consummation with the Board to signify that it has exercised the authority granted and fully abandoned the line. If consummation has not been effected by EJ&E's filing of a notice of consummation by June 28, 2013, and

[1] EJ&E is a wholly owned, indirect subsidiary of Canadian National Railway Company. *See Canadian Nat'l Ry. & Grand Trunk Corp.—Control—EJ&E West Co.,* FD 35087 (STB served Dec. 24, 2008).

[2] EJ&E states that the Goose Lake Segment is at the south end of the remaining portion of its Coal City Branch. EJ&E also states that the last traffic on the line moved prior to 1991. The line was recently utilized by a private firm to test track geometry equipment; that use ended on May 1, 2009.

[3] The Board will grant a stay if an informed decision on environmental issues (whether raised by a party or by the Board's Office of Environmental Analysis (OEA) in its independent investigation) cannot be made before the exemption's effective date. *See Exemption of Out-of-Serv. Rail Lines,* 5 I.C.C.2d 377 (1989). Any request for a stay should be filed as soon as possible so that the Board may take appropriate action before the exemption's effective date.

[4] Each OFA must be accompanied by the filing fee, which is currently set at $1,500. *See* 49 CFR 1002.2(f)(25).

there are no legal or regulatory barriers to consummation, the authority to abandon will automatically expire.

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: June 19, 2012.

By the Board, Richard Armstrong, Acting Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Clerk.

[FR Doc. 2012–15788 Filed 6–27–12; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[Docket No. AB 603 (Sub-No. 2X)]

V & S Railway, LLC—Discontinuance of Service Exemption—in Pueblo, Crowley and Kiowa Counties, CO

V & S Railway, LLC (V & S) has filed a verified notice of exemption under 49 CFR pt. 1152 subpart F–*Exempt Abandonments and Discontinuances of Service* to discontinue service over a line of railroad between milepost 868.5 near NA Junction 81022 and milepost 808.3 near Haswell 81045, a distance of 60.2 miles, in Pueblo, Crowley, and Kiowa Counties, Colo. (the line). The line traverses United States Postal Service Zip Codes 81022, 81025, 81039, 81062, 81033, 81063, and 81045.

V & S has certified that: (1) No local traffic has moved over the line for at least two years; (2) any overhead traffic on the line can be rerouted over other lines; and (3) no formal complaint filed by a user of rail service on the line (or by a state or local government entity acting on behalf of such user) regarding cessation of service over the line either is pending with the Surface Transportation Board (Board) or with any U.S. District Court or has been decided in favor of complainant within the two-year period. V & S has further certified that the requirements at 49 CFR 1105.12 (newspaper publication) and 49 CFR 1152.50(d)(1) (notice to governmental agencies) have been met.[1]

As a condition to this exemption, any employee adversely affected by the discontinuance shall be protected under *Oregon Short Line Railroad—Abandonment Portion Goshen Branch Between Firth & Ammon, in Bingham & Bonneville Counties, Idaho,* 360 I.C.C. 91 (1979). To address whether this condition adequately protects affected employees, a petition for partial revocation under 49 U.S.C. 10502(d) must be filed.

Provided no formal expression of intent to file an offer of financial assistance (OFA) to subsidize continued rail service has been received, this exemption will become effective on July 28, 2012, unless stayed pending reconsideration. Petitions to stay that do not involve environmental issues and formal expressions of intent to file an OFA to subsidize continued rail service under 49 CFR 1152.27(c)(2)[2] must be filed by July 9, 2012.[3] Petitions to reopen must be filed by July 18, 2012, with the Surface Transportation Board, 395 E Street SW., Washington, DC 20423–0001.

A copy of any petition filed with the Board should be sent to V & S's representative: Fritz R. Kahn, Fritz R. Kahn, P.C., 1919 M Street NW., (7th Floor), Washington, DC 20036.

If the verified notice contains false or misleading information, the exemption is void *ab initio.*

Board decisions and notices are available on our Web site at *www.stb.dot.gov.*

Decided: June 20, 2012.

By the Board, Richard Armstrong, Acting Director, Office of Proceedings.

Jeffrey Herzig,

Clearance Unit.

[FR Doc. 2012–15787 Filed 6–27–12; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

June 25, 2012.

The Department of the Treasury will submit the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, on or after the date of publication of this notice.

DATES: Comments should be received on or before July 30, 2012 to be assured of consideration.

ADDRESSES: Send comments regarding the burden estimate, or any other aspect of the information collection, including suggestion for reducing the burden, to (1) Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Desk Officer for Treasury, New Executive Office Building, Room 10235, Washington, DC 20503, or email at *OIRA_Submission@OMB.EOP.GOV* and (2) Treasury PRA Clearance Officer, 1750 Pennsylvania Ave. NW., Suite 8140, Washington, DC 20220, or email at *PRA@treasury.gov.*

FOR FURTHER INFORMATION CONTACT: Copies of the submission(s) may be obtained by calling (202) 927–5331, email at *PRA@treasury.gov,* or the entire information collection request maybe found at *www.reginfo.gov.*

Internal Revenue Service (IRS)

OMB Number: 1545–0957.

Type of Review: Extension without change of a currently approved collection.

Title: Request for Waiver From Filing Information Returns Electronically/Magnetically (Forms W–2, W–2G, 1042–S, 1098 Series, 1099 Series, 5498 Series, and 8027.

Form: 8508.

Abstract: Certain filers of information returns are required by law to file on magnetic media. In some instances, waivers from this requirement are necessary and justified. Form 8508 is submitted by the filer and provides information on which IRS will base its waiver determination.

Affected Public: Private Sector: Business or other for-profits.

Estimated Total Burden Hours: 750.

OMB Number: 1545–1957.

Type of Review: Extension without change of a currently approved collection.

Title: Notice 2005–64, Foreign Tax Credit and Other Guidance Under Section 965.

Abstract: This document provides guidance under section 965 enacted by the American Jobs Creation Act of 2004 (Pub. L. 108–357). In general, and subject to limitation and conditions, section 965(a) provides that a corporation that is a U.S. shareholder of a controlled foreign corporation (CFC) may elect, for one taxable year, an 85 percent dividends received deduction (DRD) with respect to certain cash dividends it receives from its CFC's. Section 965(f) provides that taxpayers may elect the application of section 965 for either the taxpayer's last taxable year which begins before October 22, 2004, or the taxpayer's first taxable year which begins during the one-year period beginning on October 22, 2004.

Affected Public: Private Sector: Business or other for-profits.

Estimated Total Burden Hours: 250,000.

[1] Because this is a discontinuance proceeding and not an abandonment, the proceeding is exempt from the requirements of 49 CFR 1105.7 (environmental reports), 49 CFR 1105.8 (historic reports), and 49 CFR 1105.11 (transmittal letter).

[2] Each OFA must be accompanied by the filing fee, which is currently set at $1,500. *See* 49 CFR 1002.2(f)(25).

[3] Because this is a discontinuance proceeding and not an abandonment, trail use/rail banking and public use conditions are not appropriate.

OMB Number: 1545–2223.

Type of Review: Extension without change of a currently approved collection.

Title: Notice 2012–7, Iowa Low-Income Housing Credit Disaster Relief.

Abstract: This notice provides guidance to Iowa housing credit agencies regarding the suspension of certain income limitation requirements under section 42 of the Internal Revenue Code for certain low-income housing tax credit properties as a result of the devastation caused by flooding in Iowa.

Affected Public: Individuals or Households.

Estimated Total Burden Hours: 125.

Dawn D. Wolfgang,

Treasury PRA Clearance Officer.

[FR Doc. 2012–15812 Filed 6–27–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

ACTION: Notice; correction.

SUMMARY: The Department of the Treasury published a document in the **Federal Register** on June 21, 2012, inviting comments on collections of information submitted to the Office of Management and Budget (OMB) for review. This document contained an incorrect reference.

Correction

In the **Federal Register** of June 21, 2012, in FR Doc. 2012–15180, make the following correction:

• Page 37475, in the first column, under *Title:* Formula and Process for Domestic and Imported Alcohol Beverages, *Form:* replace ''5000.24'' with ''5100.51''.

Dated: June 25, 2012.

Dawn D. Wolfgang,

Treasury PRA Clearance Officer.

[FR Doc. 2012–15821 Filed 6–27–12; 8:45 am]

BILLING CODE 4810–31–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for the TE/GE Compliance Check Questionnaires

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning the TE/GE Compliance Check Questionnaires.

DATES: Written comments should be received on or before August 27, 2012 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala, (202) 622–3634, at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: TE/GE Compliance Check Questionnaires.

OMB Number: 1545–2071.

Form Number: Not applicable.

Abstract: These compliance questionnaires are a critical component of TE/GE's comprehensive enforcement program. TE/GE uses these questionnaires to gain a better understanding of the compliance behavior of individual segments of the tax-exempt community and to identify and resolve specific instances of non-compliance with the laws and regulations governing tax-exempt organizations, employee pension plans, tax-exempt bonds and governmental entities.

Current Actions: As a result of changes in reporting estimates, our projected number of respondents has increased and the total estimated 3-years burden estimates has also increased. This form is also being submitted for renewal purposes.

Type of Review: Revision of a currently approved collection.

Affected Public: Tax Exempt organizations, Employee plans, tax exempt bonds, or government entities.

Estimated Number of Respondents: 9,000.

Estimated Time per Respondent: 4 hours 10 minutes.

Estimated Total Annual Burden Hours: 37,530.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 20, 2012.

Yvette Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2012–15786 Filed 6–27–12; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 1127

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 1127, Application for Extension of Time for Payment of Tax.

DATES: Written comments should be received on or before August 27, 2012 to be assured of consideration.

ADDRESSES: Direct all written comments to Yvette Lawrence, Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to R. Joseph Durbala, (202) 622–3634, at Internal Revenue Service, room 6129, 1111 Constitution Avenue NW., Washington, DC 20224, or through the Internet at *RJoseph.Durbala@irs.gov.*

SUPPLEMENTARY INFORMATION:

Title: Application for Extension of Time for Payment of Tax.

OMB Number: 1545–2131.

Form Number: 1127.

Abstract: Under IRC 6161, individual taxpayers and business taxpayers are allowed to request an extension of time for payment of tax shown or required to be shown on a return or for a tax due on a notice of deficiency. In order to be granted this extension, they must file Form 1127, providing evidence of undue hardship, inability to borrow, and collateral to ensure payment of the tax.

Current Actions: There is no change in the paperwork burden previously approved by OMB. This form is being submitted for renewal purposes only.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals and Households, Businesses and other for-profit organizations.

Estimated Number of Respondents: 1,000.

Estimated Time Per Respondent: 7 hours, 50 minutes.

Estimated Total Annual Burden Hours: 7,960.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: June 20, 2012.

Yvette Lawrence,

IRS Reports Clearance Officer.

[FR Doc. 2012–15789 Filed 6–27–12; 8:45 am]

BILLING CODE 4830–01–P

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H.R. 5883/P.L. 112–135

To make a technical correction in Public Law 112-108. (June 21, 2012; 126 Stat. 384)

H.R. 5890/P.L. 112–136

To correct a technical error in Public Law 112-122. (June 21, 2012; 126 Stat. 385)

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